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Serial: RA-10-013
July 1, 2010

United States Nuclear Regulatory Commission
ATTENTION: Document Control Desk
Washington, DC 20555-0001

CRYSTAL RIVER UNIT 3 NUCLEAR GENERATING PLANT
DOCKET NO. 50-302 / LICENSE NO. DPR-72

**RESPONSE TO CRYSTAL RIVER UNIT 3 - REQUEST FOR ADDITIONAL
INFORMATION REGARDING DECOMMISSIONING FINANCIAL ASSURANCE
PLANS 2009 BIENNIAL DECOMMISSIONING REVIEW (TAC NO. ME3710)**

Ladies and Gentlemen:

By letter dated March 25, 2009, Florida Power Corporation (FPC), now doing business as Progress Energy Florida, Inc., submitted the decommissioning funding status report for the Crystal River Unit 3 (CR-3) Nuclear Generating Plant. By letter dated May 21, 2010, the Nuclear Regulatory Commission (NRC) staff requested additional information as a result of their review of the March 25, 2009, submittal and a decommissioning trust fund "spot-check" conducted in January 2010. The response to the request for additional information is provided in the Enclosure and its attachment.

During the "spot-check" the NRC staff identified that additional funds were present in the decommissioning trust fund that were not reported to the NRC. Progress Energy wishes to reiterate that the March 25, 2009, report noted that the decommissioning trust fund contained additional funds beyond the balance that was reported for meeting the minimum decommissioning funding requirements.

This letter contains no regulatory commitments.

If you should have any questions regarding this submittal, please contact Brian McCabe, Manager – Nuclear Regulatory Affairs, at (919) 546-4579.

Sincerely,

Chris Kamilaris
Director - Fleet Support Services

CK/dbm

Enclosure w/ Att.

A 001
NRC

c:

L. Reyes, USNRC Regional Administrator – Region II
USNRC Resident Inspector – CR-3
F. Saba, NRR Project Manager – CR-3
Chairman, Florida Public Service Commission

**RESPONSE TO CRYSTAL RIVER UNIT 3 - REQUEST FOR ADDITIONAL
INFORMATION REGARDING DECOMMISSIONING FINANCIAL ASSURANCE
PLANS 2009 BIENNIAL DECOMMISSIONING REVIEW**

Question 1:

Please provide the name and address of the fund manager or managers who provided investment oversight for the trust fund for Crystal River Unit 3 (CR-3). Also provide the year end asset allocation of your decommissioning trust fund, including a general description of each asset class and the percentage of the fund allocated to that class for Calendar Years 2006, 2007, and 2008.

Response 1:

The trust fund managers who provided investment oversight of the CR-3 decommissioning trust fund were and their addresses are:

Michael Haley
State Street Global Advisors (SSGA)
3475 Piedmont Road N.E.
Suite 1920
Atlanta, GA 30305

Edward L. Ellis, CFA
Pacific Investment Management Company LLC (PIMCO)
840 Newport Center Drive, Suite 100
Newport Beach, CA 92660

Kent E. Weaver, Jr. CFA
Philadelphia International Advisors, LP
1650 Market Street, Suite 1400
Philadelphia, PA 19103

The year end asset class allocation of the CR-3 decommissioning trust fund for Calendar Years 2006, 2007, and 2008 were:

As of December 31, 2006, the total assets in the Florida Power Corporation (FPC) qualified decommissioning trust funds were approximately allocated as 55.6%, 23.5%, and 20.9% in Domestic Equity, Domestic Fixed Income, and International Equity, respectively. As of December 31, 2006, the total assets in the FPC non-qualified decommissioning trust funds were approximately allocated as 100% in Domestic Fixed Income.

As of December 31, 2007, the total assets in the FPC qualified decommissioning trust funds were approximately allocated as 55.9%, 23.2%, and 20.9% in Domestic Equity, Domestic Fixed Income, and International Equity, respectively. As of December 31,

2007, the total assets in the FPC non-qualified decommissioning trust funds were approximately allocated as 100% in Domestic Fixed Income.

As of December 31, 2008, the total assets in the FPC qualified decommissioning trust funds were approximately allocated as 52.9%, 31.2%, and 15.9% in Domestic Equity, Domestic Fixed Income, and International Equity, respectively. As of December 31, 2008, the total assets in the FPC non-qualified decommissioning trust funds were approximately allocated as 100% in Domestic Fixed Income.

Question 2:

Please clarify whether any withdrawals, other than for administrative fees or taxes, were made from the decommissioning trust funds for the period of December 31, 2006, to December 31, 2008, with or without prior written notice to the NRC, per Title 10, *Code of Federal Regulations* (10 CFR) Section 50.75(h)(2). If so, provide the date, amount, and purpose of the withdrawal.

Response 2:

There have been no withdrawals from the CR-3 decommissioning trust fund, other than for administrative fees and taxes, during the period of December 31, 2006, to December 31, 2008.

Question 3:

Please explain whether transfers were made from any of the decommissioning trust funds for the period of December 31, 2006, to December 31, 2008. If so, provide the date, amount and purpose of the transfer.

Response 3:

There have been no transfers from the CR-3 decommissioning trust fund, other than for administrative fees and taxes, during the period of December 31, 2006, to December 31, 2008.

Question 4:

Regarding the structure of the overall decommissioning trust fund: 1) clarify whether funds for decommissioning required under 10 CFR 50.75 are commingled with other funds, 2) explain how funds are divided into subfunds or subaccounts, if any, and explain which funds are for radiological and nonradiological decommissioning purposes, 3) explain how the funds collected are allocated to any subfund or subaccount, and 4) provide any other information relevant to ascertaining the overall structure of the decommissioning trust fund.

Response 4:

Regarding the overall decommissioning trust fund:

- 1) Funds for decommissioning required under 10 CFR 50.75 are commingled to the extent that nuclear decommissioning funds for radiological and nonradiological decommissioning purposes are not maintained in separate accounts. The nuclear

decommissioning trust fund is divided between qualified and non-qualified for tax purposes.

- 2) CR-3's nuclear decommissioning trust funds are not divided into subfunds or subaccounts.
- 3) CR-3's nuclear decommissioning trust funds are not divided into subfunds or subaccounts.
- 4) Regarding the overall structure of the decommissioning trust fund, the above responses provide the relevant information.

Question 5:

Please provide documentation from the state regulatory authority that authorized collections for decommissioning, particularly with respect to the purposes for which the funds were collected (such as NRC decommissioning requirements, spent fuel management, site restoration, and others as recognized by the state authority) and the amounts authorized for each of those purposes.

Response 5:

The following Orders relate to the Florida Public Service Commission's (FPSC's) authority related to nuclear decommissioning trust funds specific to CR-3. The Orders, or relevant portions of the Orders discussed below are provided in the Attachment to this Enclosure.

Docket No. 810100-EU, Order No. 10987, July 13, 1982: This Order addresses "determining the proper ratemaking and accounting treatment of the cost associated with the decommissioning of all nuclear units operating in Florida". Specifically, it was approved that FPC would use an internal funded reserve to ensure that money is available to pay for the cost of decommissioning when the plant is fully retired. This Order defines decommissioning as "the process of dismantling or discharge and removal from the plan site of materials and equipment that are not longer used and useful, including the radioactive materials which remain following retirement of the generating unit." This definition supports the inclusion of radiated and non-radiated components in the internal funded reserve. (5 of 5 pages attached)

Docket No. 870098-EI, Order No. 21928, September 21, 1989: This Order was intended to ensure that the "Internal Revenue Service (IRS) will have adequate information to determine the appropriate decommissioning costs to be considered for tax purposes." A topic specifically discussed is the treatment of non-contaminated components and facilities costs. Due to insufficient information at the time of the Order to offer a change in accounting, the FPSC determined that they would continue to allow for the accrual of decommission costs for nuclear plants on a total plant basis (radiated and non-radiated). The FPSC approved an annual accrual of \$11.2M for CR-3. This Order required a follow-up economic cost study for each nuclear generating unit to be filed within two years of the effective date of this Order "to determine if it is cost justified to retain the non-contaminated portion of the nuclear plant assets for use with a new generating system." See Order No 92-0573 below. The annual accrual approved by

the FPSC is based on the availability of funds to meet the radiated and non-radiated expenses. (11 of 11 pages attached)

Docket No. 910981-EI, Order No. PSC-92-0573-FOF-EI, June 26, 1992: This Order resulted from a requirement per Order No. 21928 (above) for FPC to submit a site specific economic cost study for CR-3 “to determine if it is cost justified to retain the non-contaminated portion of the nuclear plant assets for use with a new generating station.” The Order acknowledged that there are some non-contaminated assets that can be used elsewhere, but did not alter the FPSC’s approval of an annual accrual that will be available for both radiated and non-radiated decommissioning purposes. (1 of 1 page attached)

Docket No. 941352-EI, Order No. PSC-95-0477-FOF-EI, April 12, 1995: This Order provided preliminary approval of proposed accrual rates. Accrual rates were finalized in Order No. PSC-95-1531-FOF-EI (below). (5 of 5 pages attached)

Docket No. 941352-EI, Order No. PSC-95-1531-FOF-EI, December 12, 1995: This Order addresses a petition to increase the annual accrual for nuclear decommissioning. The FPSC approved an annual accrual of \$20.5M. This Order also specifically addresses spent nuclear fuel and that the costs for on-site dry storage are included in the accrual. Per the Order, “FPC’s annual accrual amounts should include the costs incurred for dry storage of spent nuclear fuel after each unit is retired.” The annual accrual approved by the FPSC is based on the availability of these funds to meet the requirements of radiated and non-radiated dismantlement. (12 of 18 pages attached)

Docket No. 991617-EI, Order No. PSC-99-2491-PAA-EI, December 20, 1999: Deferred filing of the nuclear decommissioning cost study due to variances between Carolina Power & Light Company and FPC nuclear decommissioning costs. Request was approved. (5 of 5 pages attached)

Docket No. 000543-EI, Order No. PSC-01-0096-FOF-EI, January 11, 2001: Adopted Rule 25-6.04365, Florida Administrative Code, relating to nuclear decommissioning. “This rule requires each utility to file a nuclear decommissioning study on a regular basis, the purpose of which is to obtain sufficient information to update cost estimates based on new developments, additional information, technological improvements and forecasts; to reevaluate alternative methodologies; and to revise the annual accrual needed to recover the costs.” The annual accrual, which is based on the nuclear decommissioning study, includes radiated and non-radiated costs. (7 of 7 pages attached)

Docket No. 001835-EI, Order No. PSC-02-0055-PAA-EI, January 7, 2002: Petition for approval of revised annual accrual for nuclear decommissioning costs. The Order reduced FPC’s annual accrual to \$7.7M. This annual accrual is based on the availability of these funds to meet the requirements of radiated and non-radiated dismantlement supported by the nuclear decommissioning study. Further, the FPSC continues to order “the costs for interim dry storage of SNF [spent nuclear fuel] incurred after retirement of

each nuclear unit is prudent. If such costs are not included, those costs may have to be borne by those customers that will not benefit from the power generated by the nuclear units.” This language further clarifies the intent of the FPSC’s decision to approve the nuclear decommissioning annual accrual to include all costs of decommissioning (radiated and non-radiated). In this Order, the FPSC specifically acknowledges that the following types of costs are included in the FPC nuclear decommissioning study, which is the basis for the approved annual accrual: decontamination, removal, packaging, shipping, burial, staff and other. (16 of 43 pages attached)

Docket No. 001835-EI, Order No. PSC-02-0136-CO-EI, January 30, 2002: Ordered that Order No. PSC-02-0055-PAA-EI (above) become effective and final. (2 of 2 pages attached)

Docket No. 000824-EI, Order PSC-02-0655-AS-EI, May 14, 2002: Approved a settlement agreement, authorized midcourse correction and required rate reductions. This Order approved the suspension of accruals to FPC’s reserves for nuclear decommissioning effective May 1, 2002 through December 31, 2005. (7 of 32 pages attached)

Docket No. 050078-EI, Order No. PSC-05-0945-S-EI, September 28, 2005: Stipulation and Settlement agreement related to Progress Energy Florida Inc’s (PEF’s) petition for rate increase. In this Stipulation and Settlement, it was agreed that PEF will continue to suspend accruals to its reserve for nuclear decommissioning. (7 of 166 pages attached)

Docket No. 090079-EI, Order No. PSC-10-0131-FOF-EI, March 5, 2010: Petition for increased rates by PEF. It was determined that the FPSC’s review of PEF’s nuclear decommissioning accruals would be deferred until December 2010 to correspond with the timeframe when Florida Power & Light will file their nuclear decommissioning study. (9 of 175 pages attached)

Attachment to Enclosure for RA-10-013

**Relevant Portions of
Florida Public Service Commission Orders
Discussed in Response to Question 5
(87 pages not including this cover sheet)**

**In Re: Investigation of the Appropriate Accounting and
Ratemaking Treatment of Decommissioning Costs of
Nuclear-Powered Generators.**

Docket No. 810100-EU(CI)

Order No. 10987

Florida Public Service Commission

July 13, 1982

APPEARANCES: James A. McGee, Esq., P. O. Box 14042, St. Petersburg, FL 33733, for Florida Power Corporation. Matthew M. Childs, Esq., 1400 S.E. First National Bank Bldg., Miami, FL 33131, for Florida Power & Light Company. Roger Howe, Esq., Office of Public Counsel, Rm. 4, Holland Bldg., Tallahassee, FL 32301, for the Citizens of the State of Florida. Paul Sexton, Esq., 101 E. Gaines St., Tallahassee, FL 32301, for the Commission Staff. Prentice P. Pruitt, Esq., 101 E. Gaines St., Tallahassee, FL 32301, as Counsel to the Commissioners.

Before Joseph P. Cresse, Chairman, Gerald L. Gunter and Katie Nichols, Commissioners.

FINAL ORDER

BY THE COMMISSION:

Pursuant to duly given notice, the Florida Public Service Commission held a public hearing on this matter in Tallahassee, Florida, on February 8, 1982.

This proceeding was initiated on the Commission's own motion by Order No. 10067, issued on June 16, 1981. This proceeding was initiated for the express purpose of determining the proper ratemaking and accounting treatment of the cost associated with the decommissioning of all nuclear units operating in Florida.

Order No. 10067 set forth 12 issues to be considered during this proceeding, many of which are informational in nature. A prehearing order was issued on January 21, 1981, which further clarified the issues and set forth the parties' positions.

Decommissioning

Decommissioning involves the process of dismantling or discharge and removal from the plan site of materials and equipment that are not longer used and useful, including the radioactive materials which remain following retirement of the generating unit. Decommissioning amends the licensing status of a nuclear power plan from operational to possession-only and to possible unrestricted use.

Decommissioning Options

There are basically three decommissioning options identified by the Nuclear Regulatory Commission: mothballing, entombment, and dismantlement. Mothballing is minimum decommissioning involving a continuing program of security, radiation monitoring and environmental surveillance. A possession-only NRC license is required. Entombment is similar to mothballing, except a biological shield is erected to prevent all physical access to the radioactive portions of the plan. A continuing security monitoring and surveillance program is a condition of the possession-only NRC license. Dismantlement is prompt removal of spent fuel, radioactive fluids and wastes, followed by dismantling and removal of all materials having activity levels above established for unrestricted access to the site. The utility can thereafter terminate its possession-only NRC license. The NRC has established one combination mode, "Mothballing/Delayed Dismantlement". There is also one alternative to decommissioning which is entitled "Recommissioning" and involves repowering the electric generating system after the original nuclear steam supply system has been isolated and decommissioned. According to NRC policy and the general regulatory atmosphere, only immediate or delayed dismantlement appear acceptable.

Florida Power Corporation proposes to use Dismantlement and Prompt Removal. This would result in the lowest estimated costs as described in Mr. Sieving's testimony. Additional reasons are early site availability and reduced risk of changes in regulations and cost escalations. Florida Power & Light proposes to use the combination mode of Mothballing/Delayed Dismantlement. This would entail mothballing for a period of 30 to 50 years followed by dismantlement.

Responsibility for Decommissioning

As sole licensee of Crystal River Unit No. 3, Florida Power Corporation retains responsibility for the decommissioning of Crystal River 3. Participants share in ten percent of ownership in Crystal River 3 and the participation agreement provides that, as co-owners, the participants are jointly responsible for decommissioning costs. As licensee of Turkey Point Units 3 and 4 and St. Lucie Unit No. 1, Florida Power & Light is required to show financial capability in operation and submission of decommissioning plans and alternatives, with final plans submitted at least one year before decommissioning activities commence. Florida Power & Light has one joint ownership agreement for an approximate six percent ownership of the St. Lucie

Nuclear Facility Unit No. 2. The agreement states that the participant shall make funds "available for payment of decommissioning (and disposal) costs on the same basis and with the same priority as (those) provided by the company".

Costs of Decommissioning

Based on the information available at this time, the costs in 1980 dollars associated with the above methodologies are as follows:

FLORIDA POWER CORPORATION -- Crystal River Unit No. 1

| | | |
|----|---|---------------|
| 1. | Mothballing with removal in 70 years | \$149,000,000 |
| 2. | Entombment with removal in 70 years | \$149,000,000 |
| 3. | Prompt removal | \$ 71,000,000 |

FLORIDA POWER & LIGHT COMPANY -- Turkey Point Unit 3 & 4 and St. Lucie Unit 2

| | | |
|----|---|-----------------------------------|
| 1. | Mothballing: \$94-153 million | (\$121 million most probable). |
| 2. | Entombment: \$92-175 million | (\$113 million most probable) |
| 3. | Dismantlement: Immediate - \$131-196 million | (\$162 million most probable) |
| | Delayed with mothballing - \$195-304 million | (\$245 million most probable) |

Also, based upon information available at this time, the

costs of decommissioning in 1980 dollars on an annual basis and in total for Florida Power Corporation are:

| Year | \$Million |
|--------------|-------------|
| -3 | 0.7 |
| -2 | 1.4 |
| -1 | 2.1 |
| +1 | 8.5 |
| +2 | 12.8 |
| +3 | 15.6 |
| +4 | 13.5 |
| +5 | 16.4 |
| TOTAL | 71.0 |

Florida Power Corporation expects decommissioning expenditures to begin three years prior to final shutdown and continue for five years thereafter.

Florida Power & Light has not determined decommissioning costs on a year-to-year basis.

Accounting Treatment and Tax Treatment

Both Florida Power Corporation and Florida Power & Light account for the costs associated with decommissioning by including it as part of the depreciation expense pertaining to the nuclear units they own. This means that, in addition to the normal life factor for the depreciable nuclear plant, the annual depreciation rates include factors for the cost of decommissioning. Each month, as the depreciation rates are applied to the depreciable nuclear plant balances, the estimated cost of decommissioning is charged to depreciation expense, with an offsetting credit to the accumulated provision for depreciation. When the plant is retired, and costs are actually incurred for decommissioning, the reserve will be debited and cash or accounts payable will be credited as the bills are incurred. Thus, the cost of decommissioning is currently treated no differently than any other cost of removing utility plant.

This current accounting treatment is insufficient to properly monitor the expense that is being charged to customers. A better approach would be to segregate the portion of the accumulated provision for depreciation pertaining to decommissioning. In addition, instead of accounting for the annual cost of decommissioning as part of the depreciation rate, it should be accounted for separately. This change can best be achieved in the following manner:

1. The cost expense to date (the embedded portion) would

be separately stated by creating a distinct sub-account of Account 108, Accumulated Provision for Depreciation. This sub-account would include only the booked estimated cost of decommissioning a nuclear unit. It should be segregated further by units, so that each unit's decommissioning reserve is accounted for separately.

2. For the prospective decommissioning expense, the annual cost should be excluded from the calculation of the nuclear unit depreciation rate(s). Instead, the total estimated cost of decommissioning, minus that amount already expensed, should be amortized over the remaining life of the nuclear unit. The remaining life would be the same that is used to determine the depreciation rate for the unit. This annual amortization would be recorded in a separate expense sub-account of Account 403, Depreciation Expense. This sub-account should also be separated by units, if more than one is owned.

As to how often these costs should be reviewed for change, we are of the opinion that the estimate of the cost of decommissioning should be reviewed and, if necessary, changed no less often than every five years. To date, every five years is the time frame the utilities have been following.

Currently, the estimated future costs of decommissioning are collected pro rata over the life of the facility as a negative salvage component of depreciation. The accumulated reserve, being unfunded, allows the companies to use the revenues currently, thereby reducing the need for additional external financing. The result is a lower current revenue requirement to the ratepayer. The accumulated reserve is subtracted from rate base, further reducing revenue requirements over the life of the plant. This is offset, however, by a reduction in cost free capital, due to the fact

that a prepaid tax reserve is built up as the company pays income taxes currently on the revenue pertaining to the costs of decommissioning. Under provisions of the Internal Revenue Code (Section 61), money collected to cover the cost of decommissioning must be included in taxable income in the year of receipt. A timing difference arises because decommissioning costs are deducted for book purposes but not for tax purposes. The prepaid taxes arise because no current tax deduction is available for decommissioning. Because of the use of full normalization, the customers do not pay the income taxes on these revenues. They do, however, pay a return to the company on the taxes that are prepaid. This return continues until the costs are tax deductible, which is when the company actually decommissions the unit. Instead of accumulated deferred income taxes existing, as is normally the case under full normalization, accumulated prepaid income taxes arise, which are an asset instead of a liability.

The companies presented a second method for treating these costs in determining revenue requirements and recommended that either of the two methods be utilized to allow the utilities to recover currently the costs of decommissioning. This second method differs from the first, in that the accumulated reserve is not subtracted from rate base. Instead, in lieu of additional annual charges for the impact of inflation which would be needed under the first method, the time value of the use of accumulated reserve would be added to the reserve each year. The reserve would thus grow until the plant was decommissioned. While the rate base would be greater because no deduction was made for the reserve (with revenue requirements being greater), this would be offset by not having to increase the annual accrual for the cost of decommissioning because of inflation (with revenue requirements being less). We conclude that the current treatment should be continued.

Funded vs. Unfunded Reserve

The principle question raised in this docket involves the choice of the most appropriate method to ensure that the money is available to the companies to pay for the costs of decommissioning when the plants are finally retired. There are currently four funding methods that are available:

1. Prepayment at the time of initial plant operation based on estimated future costs;
2. An internal funded reserve which restricts usage of the funds;
3. An externally funded reserve, through the use of a trust or other fund; and
4. An internally unfunded reserve which allows the com-

pany to use the funds for general corporate purposes.

Prepayment would require a company, just prior to the initial plant operation, to estimate the future cost of decommissioning the nuclear unit. The total cost would then be "prepaid" upfront, by placing the cash in a segregated fund. The fund would most likely be invested, to provide a hedge against inflation until such time as the cash was actually needed. This method is the most costly of the four, as the cost is prepaid before it is collected from the customers. As a result, included in the total cost the customers would pay for decommissioning would be the capital costs associated with the lump sum prepayment. The capital costs would be incurred by the company until the borrowed funds are paid back in the future, which would probably occur as the customers pay for the annual cost of decommissioning.

An internal funded reserve is the one most commonly referred to when one speaks of a funded reserve. The money received from the customers in rates to pay for the estimated annual cost of decommissioning is invested in a segregated fund, to be used to pay for the cost of decommissioning when the unit is physically taken out of service. By investing the money, the fund earns a return, with the intention being that the earnings track the cost of inflation so that sufficient funds are available at the end of the physical life of the nuclear unit to pay for the total cost of decommissioning. The earnings are thus reinvested in the fund, and not withdrawn for other uses. Adjustments are necessary to the fund if the earnings materially fluctuate from what is anticipated to be needed.

Because the money collected from the customers is invested, and not available for any other use, this internally generated source of funds is no longer available for general corporate purposes. It is thus necessary for this source of funds to be replaced. The replacement funds are external sources, and include the traditional sources a company currently uses (common stock, debt, preferred stock), all having a capital cost of service to be recovered from the customer, assuming the money raised is totally used to pay for utility related rate base investment.

An externally funded reserve differs from the internally funded one in two respects. First, the money collected from the appropriate procedures are set up so that the money collected is income tax exempt. Second, the fund is controlled by a third party trust agency, completely independent of the company. Otherwise, the fund operates in the same manner as the internal funded reserve.

An internally unfunded reserve is the method that is currently utilized by both Florida Power Corporation and Florida Powe & Light. The money collected from the customers becomes an internal source of funds to be used by the company for general corporate purposes. No specific fund of money is set aside to pay for the cost of decommissioning. Rather, when the bills for decommissioning come due, the company will raise the money through normal financial markets. From an economic standpoint, this method produces the lowest cost to the customers, due to the elimination of the capital costs that are not incurred because the funds generated internally are used instead.

In deciding upon the proper method to use, three concerns exist: 1. the ability of the companies to pay for the cost of decommissioning when the bills become due; 2. the proper ratemaking treatment of the costs of decommissioning without penalizing either the ratepayers or the stockholders; and 3. addressing the impact of inflation on the costs in order to minimize the billings to customers, while at the same time providing the utilities with a fair opportunity to recover the costs they will incur to dispose of the radiated plant. At present, no one method adequately addresses all three concerns. Thus, we must choose between a method which will more adequately insure the availability of funds (internal funded reserve) or a method which will produce the lowest cost to the customer (internal unfunded reserve).

The companies have urged the use of an unfunded reserve, as is the current practice. The companies argue that an unfunded reserve results in the lowest revenue requirements to the customers and that the cost of decommissioning is not so great that it cannot be financed when the costs must be paid.

We conclude that the use of an internally funded reserve is the appropriate method to account for decommissioning costs. The uncertainty surrounding future decommissioning costs and regulatory requirements argues strongly for a method that provides greater assurance of available funds when decommissioning costs are paid. In addition, the use of an unfunded reserve results in an inappropriate allocation of costs between customers. Customers who are currently receiving service from nuclear units do not pay the full cost of decommissioning those units under an unfunded reserve, even though only current customers will receive the benefits of nuclear powered generation. Yet, the risk of potentially inadequate reserves for decommissioning would fall on future ratepayers. We conclude that

the proper allocation of the costs of decommissioning between present and future customers and the need for assurance of funds for decommissioning call for the use of a funded reserve.

Timing of Changes Affecting Revenue Requirements

The companies have requested that any changes which would affect revenue requirements be held in abeyance until each company's next rate case. While intuitively this seems the proper course of action, we see no compelling reason to wait. We therefore request staff to present to the Commission at the earliest possible date, a plan for recovering the revised costs of decommissioning the four nuclear units currently operating in Florida. All other changes should be implemented.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the accounting treatment of costs associated with decommissioning nuclear units shall be revised, as set forth above. It is further

ORDERED that decommissioning costs for nuclear generating units shall be funded by the use of a funded reserve. It is further

ORDERED that this docket remain open pending a staff recommendation on effectuating any revenue requirement changes pertaining to the recovery of decommissioning costs.

By Order of the Florida Public Service Commission, this 13th day of July 1982.

STEVE TRIBBLE COMMISSION CLERK

(SEAL)

As printed in Florida Public Service Commission Reporter

END OF DOCUMENT

▷ In Re: Petitions for Approval of an Increase in the Accrual of Nuclear Decommissioning Costs by Florida Power Corporation and Florida Power & Light Company.

Docket No. 870098-EI

Order No. 21928

Florida Public Service Commission
September 21, 1989

APPEARANCES: JAMES McGEE, Esquire, 3201 34th Street, South, P. O. Box 14042, St. Petersburg, Florida 33733 On behalf of Florida Power Corporation. MATTHEW CHILDS, Esquire, and CHARLES A. GUYTON, Esquire, Steel, Hector & Davis, 215 S. Monroe, First Florida Bank Building, Suite 601, Tallahassee, Florida 32301-1804 On behalf of Florida Power and Light Company. M. ROBERT CHRIST, Esquire, Florida Public Service Commission, Division of Legal Services, 101 East Gaines Street, Tallahassee, Florida 32399-0863 On behalf of the Commission Staff. PRENTICE P. PRUITT, Esquire, Florida Public Service Commission, General Counsel, 101 East Gaines Street, Tallahassee, Florida 32399-0862 On behalf of the Commissioners.

Before Michael McK. Wilson, Chairman, Thomas M. Beard, Betty Easley, Gerald L. Gunter and John T. Herndon, Commissioners.

FINAL ORDER

BY THE COMMISSION:

By Order No. 10987, issued July 13, 1982, in Docket No. 810100-EU(CI), this Commission required the establishment of a separate funded reserve, apart from the reserve for depreciation, for the accumulation of the estimated costs of decommissioning each nuclear unit operating in Florida. In particular, the Commission found that decommissioning cost estimates "should be reviewed and, if necessary, changed no less often than every five years." Pursuant thereto, on January 26, 1987, Florida Power Corporation (FPC) filed an updated nuclear decommissioning study for its Crystal River Unit 3 nuclear plant, accompanied by a petition seeking approval of a revised annual accrual to its nuclear decommissioning reserve, based on the cost estimates and funding assumptions developed in the study. Similarly, on April 20, 1988,

Florida Power & Light Company (FPL) filed nuclear decommissioning studies for its St. Lucie Nuclear Units 1 and 2, accompanied by a petition seeking approval of revised annual accruals to its nuclear decommissioning reserve. On June 29, 1988, FPL filed nuclear decommissioning studies for its Turkey Point Nuclear Units 3 and 4 and revisions to its studies on the St. Lucie Units 1 and 2. Also, on June 29, 1988, FPL filed a petition seeking approval of these revised annual accruals to its nuclear decommissioning reserve for the Turkey Point Nuclear Units and the amended revised accruals for its St. Lucie Nuclear Units.

On May 5, 1987, the Commission initiated a full revenue requirements rate proceeding with respect to FPC (Docket No. 870220-EI) and included the pending issue of FPC's nuclear decommissioning costs for consideration in that proceeding. As a result of a settlement subsequently approved by the Commission in that docket (Order No. 18627), FPC's annual accrual to its decommissioning reserve was increased by \$4.3 million effective January 1, 1989, together with a corresponding increase in base rates.

Pursuant to notice, a Prehearing Conference was held in this Docket on May 4, 1989, establishing the issues to be addressed. Hearings were held on May 25, 1989.

SUMMARY OF ISSUES

A number of the issues identified in this proceeding required specific Commission rulings so the Internal Revenue Service (IRS) will have adequate information to determine the appropriate decommissioning costs to be considered for tax purposes. Those are Issues 4, 6, 7-11, 20, 21, 26 and 27 as found in the Prehearing Order (Order No. 21245) and will be discussed later in this Order. The determination of future decommissioning costs, the appropriate annual accrual, and associated revenue requirements directly result from our decision on the contingency allowance, and the appropriate escalation rates. Our findings on these two issues will affect the resultant calculations made in Issues 6, 8, 10, 26 and 29.

FINDINGS, DISCUSSIONS AND CONCLUSIONS

The following findings, discussions and conclusions are dispositive of the issues raised in this proceeding.

TREATMENT OF NON-CONTAMINATED COMPONENTS AND FACILITIES COSTS

Our Staff included as an issue in this proceeding, the appropriate treatment to be afforded parts of a nuclear plant which can be classified as non-contaminated. There was no argument that a nuclear plant contains components and facilities which are not contaminated with nuclear radiation. The prime issue was whether the decommissioning costs associated with these non-contaminated components and facilities should be excluded from the total nuclear decommission cost accrued by the utilities. The record of these proceedings does not provide us with sufficient evidence to answer that question at this time. We therefore will continue to allow the accrual of decommission costs for nuclear plants on a total plant basis. However, we agree with our Staff that a site-specific economic cost study should be performed by FPL and FPC for each of their nuclear generating plants to determine if it is cost justified to retain the non-contaminated portion of the nuclear plant assets for use with a new generating station. These studies shall be filed with the Commission within two years of the effective date of this Order. Depending on the outcome of those studies, the incorporation of their findings into the general pattern of nuclear and fossil fuel decommissioning/dismantlement studies will be determined.

CONTINGENCY ALLOWANCE

| | |
|---------------------|-------|
| <u>FPL:</u> | |
| Turkey Point No. 3 | 5.0% |
| Turkey Point No. 4 | 4.9% |
| St. Lucie No. 1 | 5.0% |
| St. Lucie No. 2 | 5.0% |
| <u>FPC:</u> | |
| Crystal River No. 3 | 6.08% |

INVESTMENT STRATEGY FOR TRUST FUND AND MINIMUM EARNINGS RATE

The fundamental objective of a decommissioning trust fund is to ensure the availability of adequate financial resources to pay for decommissioning at the lowest cost to

The decommissioning studies submitted by the utilities in support of their respective petitions contained an allowance for contingencies which may occur during the actual decommissioning activities. The utilities witness testified that an overall contingency factor of 25% is a reasonable amount given the complexity of nuclear decommissioning activities.

We find that the record does support a contingency factor of 25% and it is approved.

METHODOLOGY AND ESCALATION RATE

Both utilities use the same methodology to determine the escalation rate for converting the current estimated decommissioning cost to future estimated decommissioning cost. We find this method reasonable and approve its use. We are not accepting, however, in the aggregate, either the utilities' or the staff's escalation rates.

We agree with our Staff that the determination of escalation rates is subjective. We find the escalation rates FPL recommends for each of its nuclear plants to be reasonable and thereby approve them. We find the rate Staff has recommended for FPC's nuclear plant to be reasonable and therefore approve it. The approved escalation rates are as follows:

utility rate payers. The management of the fund, therefore, must be concerned with not only the preservation of contributions, but with the purchasing power of those contributions as well. Therefore, we find that the appropriate investment strategy for a nuclear decommissioning trust fund should ensure that each dollar contributed to the fund

is available at the time of decommissioning and that the fund's assets earn a consistent positive real return over a market cycle.

As stated above, the objective of a decommissioning trust fund is to have enough money on hand at the time of decommissioning to meet all required expenses at the lowest cost to utility rate payers. However, while the previously approved investment strategy may produce adequate financial assurance that sufficient funds will be available for decommissioning, it cannot estimate with any accuracy what the fund earnings rate would or should be.

Both companies have raised logical arguments against the use of a minimum fund earnings rate. However, both companies have also conceded that it would be reasonable to charge them with the responsibility for maintaining the purchasing power of the contributions collected.

Rather than attempting to set a prospective minimum fund earnings rate which may or may not be reasonable under future economic conditions, we will require that the companies set aside funds sufficient to meet the Commission's best estimate of the decommissioning liability and require the companies to maintain the purchasing power as well as the principal amount of these contributions. The companies' investment performance will be evaluated along with all other decommissioning activities every five years. If it is found that the companies' investment earnings, net of taxes and all other administrative costs charged to the trust fund, did not meet or exceed the CPI average for the period, then we will consider ordering the utility to cover this shortfall with additional monies to keep the trust fund whole with respect to inflation. We therefore find a minimum fund earnings rate equivalent to the level of inflation over each five-year review period would be appropriate.

ASSUMED FUND EARNINGS RATE

Given that inflation will play such an important role in determining the future liability of a decommissioning trust fund, both companies agree that it is reasonable to charge them with the responsibility for ensuring that the contributions made to the fund earn at least the rate of inflation. This will ensure that the fund does not lose any of the purchasing power of the dollars contributed. We agree with our Staff recommendation that the companies be required to invest the decommissioning trust fund monies in such a way that the purchasing power as well as the actual contributions remain intact. According to utilities' testimony, DRI forecasts a long-term average CPI over the

next 25 years of 5.27%. We therefore find that an appropriate fund earnings rate, net of taxes and all other administrative costs charged to the trust fund, to be used in this proceeding, is 5.27%.

PARTIES OWNING AN INTEREST IN THE NUCLEAR UNITS

According to testimony presented by FPL, St. Lucie Unit No. 2, is their only nuclear plant of which other parties own a portion. Participation agreements have been established so that each participant either contributes to the trust fund already established or establishes a separate fund to collect its ownership percentage of decommissioning costs.

FPC presented testimony that contracts are in place for the co-owners of CR3 to provide their proportionate share of the plant's decommissioning costs.

With no evidence to the contrary, we agree with our Staff and find that each company has made the necessary arrangements to ensure that all parties owning an interest in the nuclear units will provide their proportionate share of the associated decommissioning costs.

EFFECTIVE DATE FOR ADJUSTING THE ANNUAL ACCRUAL AMOUNTS

We approve the companies and Staff recommended effective dates for adjusting the annual accrual amounts. For FPL, the effective date is of January 1, 1989. For FPC, the effective date is January 1, 1990 which is consistent with our actions in Order No. 18627 in Docket No. 870220-EI.

ANNUAL ACCRUAL, JURISDICTIONAL REVENUE REQUIREMENTS AND BASE RATE CHANGES

Based on our decisions regarding the contingency allowance, escalation rates and an assumed fund earnings rate discussed previously in the body of this Order, the resultant annual accruals needed to recover the decommissioning cost of each nuclear unit and the associated jurisdictional revenue requirements we approve are shown on Schedule 1, as attached. Neither company requested to have its base rates adjusted in this proceeding to reflect any changes in revenue requirements associated with revised annual accrual amounts. We agree with the companies and our Staff that base rates should not be revised in this docket.

COMPLIANCE WITH NRC AND IRS REQUIRE-

MENTS

As part of this proceeding, there were four issues addressing each company's compliance with NRC and IRS requirements as they pertain to control and management of the decommissioning trust funds. Each company presented testimony regarding these requirements. The NRC's final rule, 10 C.F.R. Section 50.75, specifies three methods acceptable to the NRC for electric utilities to use to demonstrate reasonable financial assurance that funds will be available for decommissioning. The rule permits the use of an external sinking fund, defines this type of fund as "an account segregated from licensee assets and outside licensee's administrative control", and elaborates by stating that such a fund "may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities". Each company presented testimony that its decommissioning funds are in the form of a trust with a trustee that is outside each company's administrative control. We therefore find that both companies meet these NRC requirements.

Unlike the issue of control, there is no specific wording in the NRC final rule pertaining to the management of investments of the decommissioning trust funds. FPL presented testimony that it employs an affiliate to manage the investments of its decommissioning fund. All companies are required by the NRC final rule to submit a report by July 27, 1990 indicating how the required financial assurance will be provided. At that time, the NRC will determine if FPL and FPC are in compliance with any implied requirements pertaining to the management of the investments of the decommissioning trust funds. At this time, we agree with our staff's finding that the companies are in compliance with such requirements.

IRS requirements pertaining to the control of the nuclear decommissioning funds only relate to funds qualified under Internal Revenue Code Section 468A and are silent as to how funds qualified under this Code Section are to be managed. Each company presented testimony that their respective trust is qualified under Florida law. We therefore agree with the companies and our Staff that the requirements mandated by IRS regulations for a qualified fund have been met.

FEE STRUCTURES ASSOCIATED WITH THE ADMINISTRATION AND MANAGEMENT OF THE DECOMMISSIONING TRUST FUNDS

Each company's trust was established for the same purpose

and have the same stated objective, however, the financial arrangements for the trusts differ.

As discussed earlier regarding IRS requirements, both companies use independent trustees to handle the administrative duties for the respective trusts. FPC employs an affiliate to manage the investments of its trust fund, whereas the investment manager's duties are performed internally for the FPL trust fund. While it appears that FPL paid significantly more than FPC for trustee services and that FPC paid significantly more than FPL for management services during 1988, we find neither company used fee structures that were unreasonable.

QUALIFIED VERSUS NON-QUALIFIED

The main difference between a qualified and non-qualified fund is the timing of the tax deduction. If a fund is qualified under the Internal Revenue Code Section 468A, the contributions to the fund are currently deductible. If the fund is not qualified, the deduction is allowed when decommissioning actually occurs. The revenue that is collected from the ratepayers for the cost of nuclear decommissioning is considered revenue for tax purposes in the year it is received whether the fund is qualified or non-qualified. The evidence presented in this case shows that the revenue requirements of a qualified or non-qualified fund are the same if the inflation and earnings rate are assumed to be the same and it is assumed that the tax rate remains constant. We recognize, however, that significant variations in earnings rate between a qualified and a non-qualified fund could affect revenue requirements. In addition, tax law changes that affect tax rates applicable to the fund and its earnings could also significantly increase or decrease revenue requirements.

FPL and FPC qualified its nuclear decommissioning funds for 1984 through 1987 under Internal Revenue Service Code Section 468A in order to receive the benefit of tax deductions at a higher tax rate. We find this action to have been appropriate.

FPC qualified its fund in 1988 while FPL did not. FPL's decision was based on a belief that when the tax rate is low, the ratepayers are benefited more by the non-qualified funds. While there is no evidence to suggest that FPL's tax treatment is inappropriate, we agree with our Staff that the most conservative approach is for the companies to qualify their nuclear decommissioning trust fund in all years when that option is available. This is the most conservative way to guarantee that the necessary funds will be available at

the time of decommissioning. While we will not order the companies to, prospectively, qualify their nuclear decommissioning trust funds pursuant to Section 468A of the Internal Revenue Code, the companies should take note that their decisions concerning tax elections in this regard will be closely examined in future proceedings. Each company will be required to justify its chosen tax treatment by identifying the benefits the ratepayers have received and will receive from that treatment.

As discussed previously, there were a number of issues identified in this proceeding that required specific Commission rulings so the IRS would approve each utility's treatment of the decommissioning costs for tax purposes. Some of those issues have already been addressed in this Order. The remaining IRS issues are addressed below.

IRS REQUIRED ISSUES

Decommissioning Methodology

The methodology we approve for FPC and FPL to utilize to decommission their nuclear units is as follows:

FPL:

Turkey Point Unit No. 3: Integrated Prompt Removal/Dismantling

Turkey Point Unit No. 4: Integrated Prompt Removal/Dismantling

St. Lucie Unit 1: Mothball/Prompt Integrated Dismantling

St. Lucie Unit 2: Integrated Prompt Removal/Dismantling

FPC:

Crystal River Unit 3: Prompt Removal/Dismantling

Cost of Decommissioning in Current Dollars

ance and appropriate escalation rates, the estimated cost in current (January 1, 1989) dollars we approve as being needed to decommission each of the nuclear units are:

Based on our decisions regarding the contingency allow-

FPL:

| | |
|-------------------------|---------------|
| Turkey Point Unit No. 3 | \$162,771,355 |
| Turkey Point Unit No. 4 | 191,133,750 |
| St. Lucie Unit No. 1 | 206,262,473 |
| St. Lucie Unit No. 2 | \$203,421,665 |

FPC:

| | |
|--------------------------|---------------|
| Crystal River Unit No. 3 | \$189,123,000 |
|--------------------------|---------------|

Total Estimated Cost of Decommissioning in Future Dollars

allowance, escalation rates, and an assumed fund earnings rate, the estimated total costs of decommissioning each nuclear unit in future dollars based upon present operating license termination dates are as follows:

Again, based on our decisions regarding the contingency

EPL:

| | |
|-------------------------|-----------------|
| Turkey Point Unit No. 3 | \$ 462,823,000 |
| Turkey Point Unit No. 4 | 557,567,407 |
| St. Lucie Unit No. 1 | 1,156,040,527 |
| St. Lucie Unit No. 2 | \$1,272,855,816 |

FPC:

| | |
|--------------------------|-----------------|
| Crystal River Unit No. 3 | \$1,201,528,228 |
|--------------------------|-----------------|

We hereby approve these costs.

We agree with the companies and our Staff that, as presently planned, the funds accumulated in the Nuclear Decommissioning Trust Funds will be expended for each given unit in the following years:

Years in Which the Nuclear Trust Funds Will be Expended

EPL:

| | |
|-------------------------|-----------|
| Turkey Point Unit No. 3 | 2005-2013 |
| Turkey Point Unit No. 4 | 2005-2014 |
| St. Lucie Unit No. 1 | 2014-2028 |
| St. Lucie Unit No. 2 | 2021-2028 |

FPC:

| | |
|--------------------------|-----------|
| Crystal River Unit No. 3 | 2015-2023 |
|--------------------------|-----------|

Future Costs of Decommissioning in Each Year Funds Will Be Expended

rates, and assumed fund earnings rate.

The estimated future costs of decommissioning, by unit, in each year in which decommissioning funds will be expended are shown on Schedule 2, as attached to this Order. We hereby approve these costs as reflecting our previous decisions regarding contingency allowance, escalation

Projected Date Each Nuclear Unit Will No Longer be Included in Rate Base for Ratemaking Purposes

We agree with the companies and our Staff that the projected date that each nuclear unit will no longer be included in rate base for ratemaking purposes should be predicated

on each unit's license expiration date. We therefore approve the following dates:

| | |
|--------------------------|----------------|
| FPL: | |
| Turkey Point Unit No. 3: | April 27, 2007 |
| Turkey Point Unit No. 4: | April 27, 2007 |
| St. Lucie Unit No. 1: | March 1, 2016 |
| St. Lucie Unit No. 2: | April 6, 2023 |

| | |
|---------------------------|------------------|
| FPC: | |
| Crystal River Unit No. 3: | December 3, 2016 |

Contributions to the Decommissioning Fund

As currently approved by the Commission, contributions to the decommissioning funds are made on a monthly basis. We agree with the companies and our Staff that there is no reason to change this current practice.

Cost of Service

We agree with the companies and our Staff that decommissioning expenses or accrual amounts should be included in the cost of providing service each year until each unit's operating license expiration date. This follows our current treatment of these costs. The accrual amount we are approving to be included for each unit is shown on Schedule 1, as attached to the body of this Order. This amount will be subject to subsequent review at least once every five years and is to be reflected in expenses for surveillance and tax savings reporting purposes.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the petitions for approval of increases in the accrual of nuclear decommissioning costs by Florida Power Corporation and Florida Power & Light Company is granted as

set forth in the body of this Order. It is further

ORDERED that all matter contained herein and/or attached hereto whether in the form of discourse or schedules are made intricate parts of this Order. It is further

ORDERED that the site-specific economic cost studies referred to in the body of this Order shall be filed with the Commission within two (2) years of the effective date of this Order. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 21st day of September, 1989.

STEVE TRIBBLE, Director Division of Records and Reporting

by: Kay Flynn Chief, Bureau of Records

(SEAL)

SCHEDULE 1

ANNUAL ACCRUAL

COMMISSION APPROVED

| | |
|--------------------|--------------|
| Turkey Point No. 3 | \$ 8,981,734 |
| Turkey Point No. 4 | \$11,880,002 |
| St. Lucie No. 1 | \$ 9,005,366 |
| St. Lucie No. 2 | \$ 7,647,984 |
| FPL Total | \$37,515,086 |

| | |
|---------------------|--------------|
| Crystal River No. 3 | \$11,188,360 |
| FPC Total | \$11,188,360 |

REVENUE REQUIREMENT

COMMISSION APPROVED

| | |
|--------------------|--------------|
| Turkey Point No. 3 | \$ 9,130,112 |
| Turkey Point No. 4 | \$12,076,260 |
| St. Lucie No. 1 | \$ 9,154,134 |
| St. Lucie No. 2 | \$ 7,774,329 |
| FPL Total | \$38,134,835 |

| | |
|---------------------|--------------|
| Crystal River No. 3 | \$11,373,192 |
| FPC Total | \$11,373,192 |

SCHEDULE 2

COMMISSION APPROVED

ESTIMATED FUTURE COSTS OF DECOMMISSIONING
IN EACH YEAR IN WHICH DECOMMISSIONING FUNDS
WILL BE EXPENDED

Turkey Point Plant

Estimated Future Cost

Year of Decommissioning

Unit No. 3

Unit No. 4

| | | |
|---------------|----------------------|----------------------|
| 2005 | \$ 1,042,744 | \$ 562,080 |
| 2006 | 4,432,802 | 2,438,069 |
| 2007 | 28,236,782 | 20,082,719 |
| 2008 | 87,716,299 | 29,831,823 |
| 2009 | 116,491,808 | 99,503,112 |
| 2010 | 122,316,399 | 131,947,920 |
| 2011 | 61,931,060 | 138,413,368 |
| 2012 | 30,115,030 | 77,328,856 |
| 2013 | 10,540,077 | 45,521,851 |
| 2014 | | 11,937,608 |
| Totals | | |
| | <u>\$462,823,000</u> | <u>\$557,567,407</u> |

| | | |
|--------------------------------|-------------------|-------------------|
| <u>St. Lucie Plant</u> | | |
| <u>Estimated Future Cost</u> | | |
| <u>Year of Decommissioning</u> | <u>Unit No. 1</u> | <u>Unit No. 2</u> |
| 2014 | \$ 1,634,753 | |
| 2015 | 6,410,849 | |

| | | |
|--------|-----------------|-----------------|
| 2016 | 68,854,249 | |
| 2017 | 24,649,991 | |
| 2018 | 10,980,937 | |
| 2019 | 11,529,984 | |
| 2020 | 12,106,483 | |
| 2021 | 12,711,807 | \$ 1,122,586 |
| 2022 | 65,026,032 | 4,672,115 |
| 2023 | 221,961,919 | 53,920,290 |
| 2024 | 241,815,490 | 237,021,717 |
| 2025 | 253,906,264 | 306,142,644 |
| 2026 | 112,272,220 | 321,449,776 |
| 2027 | 103,153,384 | 200,065,173 |
| 2028 | 9,026,163 | 148,461,515 |
| Totals | \$1,156,040,527 | \$1,272,855,816 |

COMMISSION APPROVED
ESTIMATED FUTURE COSTS OF DECOMMISSIONING
IN EACH YEAR IN WHICH DECOMMISSIONING FUNDS
WILL BE EXPENDED

Crystal River Plant

| | Estimated Future Cost |
|-------------------------|------------------------|
| Year of Decommissioning | Unit No. 3 |
| 2015 | \$ 29,609,186 |
| 2016 | 31,409,425 |
| 2017 | 33,319,118 |
| 2018 | 264,177,471 |
| 2019 | 280,239,461 |
| 2020 | 297,278,021 |
| 2021 | 126,848,472 |
| 2022 | 67,279,726 |
| 2023 | 71,367,348 |
| Total | <u>\$1,201,528,228</u> |

The above amounts may not add due to rounding.

As printed in Florida Public Service Commission Reporter

END OF DOCUMENT

In Re: Nuclear Decommissioning Cost Studies by
Florida Power and Light Company and Florida Power
Corporation.

Docket No. 910981-EI

Order No. PSC-92-0573-FOF-EI

Florida Public Service Commission

June 26, 1992

Before Susan F. Clark, J. Terry Deason, Betty Easley
and Luis J. Lauredo, Commissioners.

FINAL ORDER

BY THE COMMISSION:

On September 21, 1989, this Commission issued Order No. 21928 in Docket No. 870098-EI by which Florida Power and Light Company (FPL) and Florida Power Corporation (FPC) were required to submit site specific economic cost studies for each nuclear generation plant "to determine if it is cost justified to retain the noncontaminated portion of the nuclear plant assets for use with a new generating station." Each company filed a study in response to that Order and each study identified noncontaminated assets which could be reused, following the final shut-down for nuclear decommissioning, to provide another source of electric generation.

Having reviewed the studies filed by FPC and FPL we are satisfied that they have complied with the requirements of Order No. 21928 and that this docket should be closed.

In consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power and Light Company and Florida Power Corporation have submitted the site specific economic cost studies for each nuclear generating plant as required by Order No. 21928, Docket No. 870098-EI. It is further

ORDERED that Florida Power and Light Company and Florida Power Corporation shall file their next site-specific nuclear decommissioning studies on or

before September 21, 1994. It is further

ORDERED that Docket No. 910981-EI is hereby closed.

By ORDER of the Florida Public Service Commission, this 26th day of June, 1992.

STEVE TRIBBLE, Director Division of Records and Reporting

by: Kay Flynn Chief, Bureau of Records

(SEAL)

As printed in Florida Public Service Commission Reporter

END OF DOCUMENT

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Approval of Fossil) DOCKET NO. 941343-EI
Dismantlement Studies by Florida Power and Light)
Company)
)
In Re: Petition for Increase in Annual Accrual) DOCKET NO. 941350-EI
for Turkey Point and St. Lucie Nuclear Unit)
Decommissioning Costs By Florida Power and Light)
Company)
)
)
In Re: Petition for Approval of Increase in) DOCKET NO. 941352-EI
Accrual for Nuclear Decommissioning Costs by) ORDER NO. PSC-95-0477-POF-EI
Florida Power Corporation) ISSUED: April 12, 1995
)
)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING APPROVAL OF
PRELIMINARY IMPLEMENTATION OF ACCRUALS

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

By Order No. 10987, issued July 13, 1982, in Docket No. 810100-EU(CI), the Commission required the establishment of a funded reserve, separate from the depreciation reserve, for the accumulation of the estimated costs of decommissioning each nuclear unit in operation in Florida. In particular, the Commission found that nuclear decommissioning cost estimates "should be reviewed and, if necessary, changed no less often than every five years." Accordingly, on January 26, 1987, Florida Power Corporation (FPC) filed an updated nuclear decommissioning study for its Crystal River Unit 3 nuclear plant. FPC also filed a petition seeking approval of a revised annual accrual to its nuclear decommissioning reserve, based on the cost estimates and funding assumptions developed in the study. Similarly, on April 20, 1988, Florida Power & Light Company (FPL) filed nuclear decommissioning studies for

its St. Lucie Nuclear Units 1 and 2. On June 29, 1988, FPL filed nuclear decommissioning studies for its Turkey Point Nuclear Units 3 and 4, along with revisions to its studies on the St. Lucie Units 1 and 2. FPL's filing was accompanied by a petition seeking approval of revised annual accruals to its nuclear decommissioning reserve for the Turkey Point Nuclear Units and amended revised accruals for its St. Lucie Nuclear Units. Order No. 21928, issued September 21, 1989, in Docket No. 870098-EI, amended FPC's and FPL's annual jurisdictional accruals to \$11,188,360 and \$37,515,086, respectively.

Pursuant to Commission Order Nos. 10987 and 21928, which provided that an approved accrual level is subject to subsequent review every five years, FPC filed the 1994 Crystal River Unit 3 Nuclear Decommissioning Cost Study on December 30, 1994. FPC's Docket 941352-EI is scheduled to be heard with FPL's nuclear filing at the October 10, 1995 agenda conference.

Order No. PSC-93-0211-FOF-EI, issued on February 10, 1993, in Docket Nos. 900794-EI, 901001-EI, and 910081-EI, granted FPL a waiver to file fossil dismantlement studies and nuclear decommissioning studies in December, 1994, with a January 1, 1995 implementation date. FPL's request for approval of fossil dismantlement studies was received by the Commission on December 29, 1994, and Docket 941343-EI is slated to be heard by the Commission at the November 7, 1995 agenda conference. FPL filed for an increase in the annual accrual for Turkey Point and St. Lucie Nuclear Units Decommissioning Costs on December 30, 1994, and as stated previously, Docket 941350-EI is scheduled to be heard, along with FPC's filing, at the October 10, 1995 agenda conference.

The associated proposed accruals are shown on Attachment A, page 6. FPL's proposed fossil dismantlement accruals represent an increase in 1995 of about \$14.6 million over the currently prescribed accruals, and an annual increase of about \$7.4 million over current accruals for 1996 through 1998. FPL's proposed nuclear decommissioning accruals represent an annual increase of about \$8.9 million. FPC's nuclear decommissioning proposal represents an annual increase of about \$6.5 million over the current accrual levels. These accruals will be trued-up when final Commission action is taken in each of these dockets.

On January 26, 1995, FPC requested approval of its preliminary implementation of the proposed nuclear decommissioning accruals effective January 1, 1995. FPL submitted a similar request on February 22, 1995, but implemented the proposed fossil dismantlement and nuclear decommissioning accruals on January 1, 1995. These accruals relate to the removal and abandonment costs of nuclear power plants and fossil fueled generating stations. Both FPL and FPC believe they are required to provide the best estimate of expense for external financial reporting and to comply with "Generally Accepted Accounting Principles" in Statement of Financial Accounting Standards No.5 - Accounting for Contingencies. Although this is appropriate, it was not contemplated that FPC or FPL would implement proposed amounts without first obtaining Commission approval. Decommissioning and dismantlement costs are accrued separately due to their magnitude, but are nonetheless attributed to costs of removal which are recovered as depreciation expense.

Preliminary booking or implementation does not mean that, upon completion of the Commission's review of the Companies' filed studies, each Company's proposal will be automatically accepted. Such preliminary

implementation of the proposed accruals shown on the Attachment A, page 6, only means that the proposed accruals are likely to result in more appropriate expenses than would retention of the current accruals. In either case, the accruals will be trued-up upon final Commission action in each of these dockets.

The increase in FPL's annual fossil dismantlement accrual in 1995 compared to 1996 through 1998 is primarily due to the inclusion of an estimated \$7.3 million that will be required to complete the dismantlement of the units at the Palatka Plant site. The units were retired in 1983, and dismantlement activities have been taking place since 1990. Under the current schedule, dismantlement should be completed by year-end 1999.

Our final review of FPL's fossil dismantlement study is expected to be completed in November, 1995. The review of FPL's and FPC's nuclear decommissioning studies will be completed in October, 1995.

Based on the foregoing, it is

ORDERED that Florida Power and Light Company and Florida Power Corporation shall be allowed to implement, on a preliminary basis, the fossil dismantlement and nuclear decommissioning accruals specified in the above Order. It is further

ORDERED that the accrual levels became effective January 1, 1995. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto.

By ORDER of the Florida Public Service Commission, this 12th day of April, 1995.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-488-8371.

(S E A L)

BC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7) (a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 3, 1995.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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

NUCLEAR DECOMMISSIONING AND FOSSIL DISMANTLEMENT
ANNUAL ACCRUAL COMPARISONS
COMMISSION APPROVED VS COMPANY PROPOSED

ANNUAL JURISDICTIONAL ACCRUALS

| <u>Commission Approved</u> | <u>Company Proposed</u> | <u>Increase (Decrease)</u> |
|--------------------------------|-----------------------------|--------------------------------|
| \$ | \$ | \$ |

Nuclear Decommissioning:

| | | | |
|---------------------------|------------|------------|-----------|
| Florida Power Corporation | 11,188,360 | 17,664,476 | 6,476,116 |
|---------------------------|------------|------------|-----------|

| | | | |
|---------------------------|------------|------------|-----------|
| Florida Power & Light Co. | 37,515,086 | 46,399,602 | 8,884,516 |
|---------------------------|------------|------------|-----------|

Fossil Dismantlement:

| | | | |
|---------------------------|------------|------------|------------|
| Florida Power & Light Co. | | | |
| 1995 (only) | | 10,784,475 | 25,368,503 |
| 1996-1998 | 10,784,475 | 18,147,843 | 7,363,368 |
| | | | 14,584,028 |

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Increase in) DOCKET NO. 941350-EI
Annual Accrual for Turkey Point)
and St. Lucie Nuclear Unit)
Decommissioning Costs by Florida)
Power & Light Company)
_____)
In Re: Petition for Approval of) DOCKET NO. 941352-EI
Increase In Accrual for Nuclear) ORDER NO. PSC-95-1531-FOF-EI
Decommissioning Costs by Florida) ISSUED: December 12, 1995
Power Corporation)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING REVISED ACCRUALS FOR NUCLEAR DECOMMISSIONING

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

GLOSSARY OF ACRONYMS

CPI Consumer Price Index

CR3 Crystal River Unit 3

DECON Prompt Removal
with Dismantling

Case Background

Pursuant to Commission Order Nos. 10987 and 21928, which provided that an approved accrual level for nuclear decommissioning is subject to subsequent review every five years, FPL and FPC filed updated site-specific decommissioning cost studies for their nuclear units on December 30, 1994, in Docket Nos. 941350-EI and 941352-EI, respectively. On January 26, 1995, FPC requested approval for preliminary implementation of its proposed accruals, effective January 1, 1995. FPL submitted a similar request on February 22, 1995. By Order No. PSC-95-0477-FOF-EI, issued April 12, 1995, we approved the requests for preliminary implementation. In this Order, we will review in detail the utilities' updated cost studies.

Introduction

Decommissioning is defined as the dismantlement and removal of materials and equipment that are no longer used or useful, after a nuclear generating unit is retired. Decommissioning changes the licensing status of the plant from operational to possession-only, and possibly, at some future date, to unrestricted use. While the definition does not include the removal and disposal of spent fuel, it does include the on-site storage facilities used for spent fuel.

The Nuclear Regulatory Commission (NRC) accepts the following three decommissioning methods: prompt removal/dismantling (DECON); entombment (ENTOMB); and mothballing with deferred decontamination (SAFSTOR). There is also one alternative to complete decommissioning that involves repowering the electric generating system after the original nuclear steam supply system has been isolated and decommissioned. The NRC recommends prompt dismantlement, however, absent any clear demonstration that decommissioning should be done on a delayed basis.

Prior to 1981, the costs of decommissioning were considered a component of the depreciation rate design for nuclear plants in Florida. In 1981, we opened Docket No. 810100-EU(CI) to determine the proper ratemaking and accounting treatment of the costs associated with decommissioning. There we established, for the first time, decommissioning methodologies and cost estimates for nuclear facilities.

In that docket, we determined that a funded reserve, separate from the reserve for depreciation, was needed to accumulate the estimated costs of decommissioning each nuclear unit. We made this determination primarily because of the amount of money necessary to decommission or remove nuclear facilities. Public health and safety issues also influenced our determination. The separate funded reserve

ensures that the money necessary for decommissioning will be available at the expiration of each nuclear facility's operating license. See Order 10987, issued July 13, 1982.

The NRC's final rule, 10 C.F.R. Section 50.75, requires that licensees provide reasonable financial assurance that funds will be available for decommissioning. This may be done either by prepayment prior to the start of operation, by the establishment of an external sinking fund, or through insurance, a surety method, or other guarantee method. The rule defines an external sinking fund as

a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

We approved the external sinking fund method in Order No. 21928, issued in Docket 870098, on September 21, 1989.

In Order No. 10987, we recognized that the estimated decommissioning costs might need revision periodically. We required the companies to file updated decommissioning cost studies at least every five years. The purpose of these studies is threefold: 1) to update cost estimates based on new developments, additional information, technological improvements, and forecasts; 2) to re-evaluate alternative methodologies; and 3) to revise the annual accrual needed to recover the costs. We also acknowledged the desirability of performing site-specific cost studies because such studies account for factors unique to the individual nuclear unit.

In Order No. 21928, we amended FPC's and FPL's annual jurisdictional accruals to \$11,188,360 and \$37,515,086, respectively.

Both companies provide for financial assurance through monthly contributions to their nuclear decommissioning trust funds. The

nuclear decommissioning funds for both companies are held in trust with State Street Bank and Trust Company as trustee. The investments for both companies are managed by external investment management firms.

Both companies believe that their external sinking funds comply with the NRC final rule and the Internal Revenue Service (IRS) requirements.

FPC and FPL also believe that these arrangements provide reasonable financial assurance that funds will be available for decommissioning.

To determine the annual accrual amounts for decommissioning, we converted the estimated cost of decommissioning from current dollars to future dollars. The method we used to make this conversion was to multiply each year's expenditures by the specific composite escalation factor for each plant, compounded by the number of years between 1994 and the year of expenditure. We determined the appropriate escalation factors for each plant based on the site-specific studies and forecasted inflation rates for labor, materials, transportation, and burial of nuclear waste. Once the estimated cost of decommissioning was converted to future dollars, a sinking fund annuity was calculated to determine the annual accrual amounts. The assumed after-tax, net of administrative expense, rate of return to be earned on the amounts collected for decommissioning is 4.90%. The annual accrual amounts, including the earnings on fund, will increase to the future decommissioning amount.

The primary objective of a decommissioning trust fund is to ensure that enough money is on hand at decommissioning to meet all required expenses at the lowest possible cost to utility ratepayers. Because there is no one set of investment policies that can meet this objective with certainty, the management of the fund must address both the preservation of contributions and the purchasing power of the contributions. In Order No. 21928, we required that the fund's assets earn a consistent, positive, real return over a market cycle. The imposed minimum fund earnings rate has been at least the rate of inflation, measured by the Consumer Price Index, over each five year review period.

The IRS has few requirements for nuclear decommissioning funds. The IRS does require that, in order for contributions to a qualified fund to be deductible for tax purposes, certain issues must be specifically addressed by the Commission. We will, therefore, consider the projected dates when each nuclear unit will no longer be included in rate base for ratemaking purposes, and the methodologies to be used by FPL and FPC to decommission their

nuclear units. We will also address the current and future estimated costs to decommission each nuclear plant, the years in which the accumulated decommissioning funds will be expended, the escalation rates, the assumed fund earnings rate, and the annual accrual amounts.

In addition, we will determine whether funds should be contributed to the trust funds on a monthly basis.

Presently, neither FPL nor FPC has plans for license extension or premature retirement of any nuclear unit. Each nuclear unit's investment will continue to be included in rate base until expiration of the existing operating license. The license expirations for St. Lucie Units 1 and 2 are March 1, 2016, and April 6, 2023, respectively.

The license for Crystal River Unit 3 expires December 3, 2016. The licenses for Turkey Point Units 3 and 4 were amended by NRC in 1994 to measure the 40-year operating license for each unit from the in-service date, rather than from the construction date. As a result, license expirations are July 19, 2012, and April 10, 2013, respectively.

Consistent with Order No. 21928, FPC's study continues to use the DECON decommissioning method, while FPL's site-specific studies continue to use a combination of the SAFSTOR and DECON decommissioning methods. FPC uses the DECON decommissioning method for Crystal River Unit 3 because it is the most cost-effective and reasonable way to terminate the license for the site in the shortest possible time. FPL uses DECON for the Turkey Point units because this is the least expensive method, and it uses personnel familiar with the nuclear facility to support the dismantling effort. Further, DECON eliminates a potential long-term safety hazard, and relieves the Company of the obligation and liability for the continued maintenance of the property.

For the St. Lucie units, FPL uses SAFSTOR for Unit 1 with a 7.3 year dormancy, followed by DECON of both Units 1 and 2. FPL uses this method because of the difference in license expiration dates. This method will allow for a one-time mobilization of contractor personnel and equipment by mothballing Unit No. 1 until the expiration of Unit No. 2's license.

Changes

One major change from the last studies is the treatment of the spent fuel generated during the operation of the nuclear plants. The NRC now requires that spent nuclear fuel (SNF) be cooled in the spent fuel pools for at least five years before it can be accepted

by the Department of Energy (DOE). Further, there are concerns that, because DOE is not yet capable of receiving spent fuel assemblies, it may not be able to begin accepting SNF and high-level radioactive waste (HLW) by January 31, 1998, as was outlined in the Standard Disposal Contracts with waste generators.

Another change in the studies is due to the new cost projections for low-level radioactive waste (LLRW) disposal. While burial rates have increased over 600% since 1987, these studies reflect the recycling of non-compactible LLRW to reduce the total volume of radioactive material buried. A substantial portion of the metallic waste generated by decommissioning can be decontaminated for release

as clean scrap. Vendors are currently providing utilities with these services. Not only does decontamination help reduce the effect of increasing disposal costs, it also lowers packaging and transportation costs.

Increased staffing is another factor reflected in the current studies. Experience gained from decommissioning planning at other nuclear plants has highlighted the need for additional technical support, especially in the areas of health physics, radiation protection, and analytical services. The most significant staff cost increase is associated with spent fuel caretaking.

In addition, contingency factors have decreased from the last decommissioning studies. In FPL's and FPC's last studies, an overall 25% contingency factor was applied to the total costs for decommissioning each nuclear unit. In the current studies, FPL and FPC apply specific contingency factors to individual cost categories in order to develop a weighted average contingency factor. Other factors, such as escalation rates and inflation forecasts, also indicate that the current decommissioning accrual levels should be revised.

Contingency Allowance

We have determined that a contingency allowance must be applied to the costs of decommissioning nuclear units. Application of specific contingency factors to each line item cost resulted in the following weighted average contingency factors:

| | |
|---------------------------|--------|
| FPC: Crystal River Unit 3 | 17.00% |
| FPL: Turkey Point Unit 3 | 17.49% |
| Turkey Point Unit 4 | 17.21% |
| St. Lucie Unit 1 | 17.46% |
| St. Lucie Unit 2 | 17.14% |

These contingency factors do not reflect the most recent change in the burial rates. We note, however, that we applied the correct contingency factors associated with the increased burial costs in order to determine the appropriate annual accrual amounts.

A contingency is defined in the American Association of Cost Engineers' Cost Engineers' Notebook as a

specific provision for unforeseeable elements of cost within the defined project scope; particularly important where previous experience

relating estimates and actual costs has shown that unforeseeable events which will increase costs are likely to occur.

"Unforeseeable events" may include: bad weather, labor strikes, equipment failure, and other unexpected circumstances. Contingencies are not a means to "cushion" estimates or to account for inflation. They are used solely to insure that sufficient funds will be available should something unpredictable, as well as costly, occur during decommissioning.

In each of the site-specific decommissioning cost studies, TLG Services, Inc. (TLG) applied specific contingency estimates to the associated decommissioning costs on a line item basis to produce the weighted average contingency values shown above. The specific contingency estimates applied to each cost category were recommended in a published study from the Atomic Industrial Forum/National Environmental Studies Project report AIF/NESP-036, "Guidelines for Producing Commercial Nuclear Power Plant Decommissioning Cost Estimates." In addition to providing suggested contingency estimates, this report provided a list of reasons to support the suggested contingency estimates chosen for each cost category.

The methodology used to calculate the weighted average contingency factors is appropriate. The weighted average contingency factors shown above will, however, change with any change in the decommissioning costs to which the specific contingency estimates are applied. Thus, the approved contingency factors may not always be appropriate, but the methodology used to determine them is reasonable.

REVISION OF ACCRUALS

As mentioned in the Case Background, we approved preliminary implementation of FPL's and FPC's proposed increased

decommissioning accruals. Upon review, we believe that the preliminary approved annual nuclear decommissioning accruals for Florida Power and Light Company (FPL) and Florida Power Corporation (FPC) should be revised. Each company shall true up its preliminary accruals accordingly.

Spent Nuclear Fuel

FPL's and FPC's annual accrual amounts should include the costs incurred for dry storage of spent nuclear fuel after each unit is retired. We will continue to review these amounts to determine the prudence of their inclusion in the annual accruals.

the specific inflation measures FPL and FPC used to determine the escalation rates.

TLG provided both companies with estimates of the base costs for each activity. The cost estimates were determined through site-specific studies and included a site-specific contingency allowance. The analysis performed by FPC breaks the decommissioning process into seven specific stages or activities: 1) decontamination; 2) removal; 3) packaging; 4) shipping; 5) burial; 6) staff; and 7) other. Where applicable, each of these activities are separated into four sub-components: 1) labor; 2) materials; 3) burial; and 4) other. The analysis performed by FPL breaks the decommissioning process into five more general stages. These stages are: 1) labor; 2) materials; 3) shipping; 4) burial; and 5) other.

Although the site-specific studies identify unique costs associated with each nuclear plant, the homogeneous nature of the burial and shipping requirements, the labor involved, and the materials used in the decommissioning process leads us to believe that the same inflation indices should be used to determine the appropriate escalation rate for each nuclear plant. We still recognize the cost characteristics unique to each nuclear plant because the methodology used to calculate the escalation rates relies on site-specific base costs provided by TLG. We have used the same inflation indices to escalate labor, materials, shipping, and burial costs because we believe that the costs for these activities should increase at the same rate, regardless of whether the nuclear plant is owned by FPL or FPC.

Both companies relied on inflation forecasts published by Data Resources, Inc. (DRI). FPL's updated petition reflects rates from

the Summer 1995 edition. FPC's petition reflects inflation rates from the Summer 1994 edition. For consistency, we use the inflation rates from the Summer 1995 edition to determine the appropriate escalation rate for both utilities' units.

FPC escalates labor costs using the Employment Cost Index for Wages and Salaries; material costs using the PPI-Intermediate Materials, Supplies, and Components index; other costs (shipping) using the GDP Deflator-Transportation index; and burial costs using an estimate of the expected inflation rate for low-level radioactive waste burial costs, from the present through the end of decommissioning. FPL escalates labor costs with the Compensation per Hour index; material costs with the PPI-Intermediate Materials, Supplies, and Components index; and shipping, burial, and other costs with the GDP Implicit Price Deflator index.

than the fund's expected long-term return. FPC proposes a fund earnings rate of 4.90%. This rate is the average of the expected long-term, after-tax, after-expenses return on the nuclear decommissioning trust fund, as determined by FPC's trust fund consultant and DRI's forecast of CPI over the next 25 years. We find that the appropriate after-tax, net of administrative expense, rate of return to be earned on the amounts collected for decommissioning is 4.90%

In addition, we have considered whether we should impose a minimum fund earnings rate. Both companies recommended against a minimum fund earnings rate. Instead, they requested that we use the same approach approved in Order No. 21928. There we said:

Rather than attempting to set a prospective minimum fund earnings rate which may or may not be reasonable under future economic conditions, we will require that the companies set aside funds sufficient to meet the Commission's best estimate of the decommissioning liability and require the companies to maintain the purchasing power as well as the principal amount of these contributions. The companies' investment performance will be evaluated along with all other decommissioning activities every five years. If it is found that the companies' investment earnings, net of taxes and all other administrative costs charged to the trust fund, did not meet or exceed the CPI average for the period, then we will consider ordering the utility to cover this shortfall with additional monies to keep the trust fund whole with respect to inflation. We therefore find a minimum fund earnings rate equivalent to the level of inflation over each five-year review period would be appropriate.

We still agree with this approach, and we will include a minimum fund earnings rate equivalent to the level of inflation over each five-year review period.

APPROVED ACCRUALS

Based on the current dollar cost to decommission each nuclear plant, the plant-specific contingency allowances, the plant-specific escalation rates, the cost of extended storage for spent fuel, and a fund earnings rate of 4.90%, we have determined the appropriate jurisdictional annual accrual amounts necessary to recover future decommissioning costs over the remaining life of each nuclear power

plant. For comparison, the accrual amounts approved for preliminary implementation in Order No. PSC-95-0477-FOF-EI are listed below, along with the approved accrual amounts. The approved amounts shall be included in the respective companies cost of service for ratemaking purposes.

Order No. APPROVED
95-0477 Accrual

FPL:

| | | |
|-------|---------------------|---------------------|
| TP 3 | \$10,167,897 | \$17,823,278 |
| TP 4 | 13,696,566 | 22,558,722 |
| SL 1 | 12,374,944 | 24,241,074 |
| SL 2 | <u>10,160,195</u> | <u>19,401,261</u> |
| Total | <u>\$46,399,602</u> | <u>\$84,024,335</u> |

FPC:

| | | |
|------|---------------------|---------------------|
| CR 3 | <u>\$17,664,476</u> | <u>\$20,502,310</u> |
|------|---------------------|---------------------|

Time Periods

The decommissioning funds will be expended over the time periods illustrated below. The longer term for on-site spent fuel storage is included in the period. When the dry storage period is

over and all spent fuel assemblies have been transferred to DOE, the dry storage compound will be decontaminated and dismantled. The entire site will then be available without any NRC restrictions.

Years of Fund Expenditures

FPL:

| | |
|---------------------|-----------|
| Turkey Point Unit 3 | 2012-2035 |
| Turkey Point Unit 4 | 2013-2035 |
| St. Lucie Unit 1 | 2016-2046 |
| St. Lucie Unit 2 | 2023-2046 |

FPC:

| | |
|----------------------|-----------|
| Crystal River Unit 3 | 2016-2041 |
|----------------------|-----------|

We believe our above determination of the appropriate annual accrual satisfies IRS requirements regarding the current and future

cost to decommission each nuclear plant, the years the trust funds will be expended, the specific escalation rates for each plant, the assumed fund earnings rate, and the annual accrual amounts for each plant.

FPL and FPC requested January 1, 1995, as the effective date for implementation of the revised accruals. Each company's data and related calculations support that date. Because it is the earliest practicable date for using the revised decommissioning accruals, January 1, 1995, shall be the effective date.

Also, contributions shall be made to the trust funds on a monthly basis. This is the current practice and was approved in Order Nos. 10987 and 21928. Considering that customers are billed monthly and costs are recovered monthly, monthly contributions are practical.

Based on the foregoing, it is therefore

ORDERED that Florida Power & Light Company's decommissioning accruals are hereby revised as set forth in the body of this Order. It is further

ORDERED that Florida Power Corporation's decommissioning accruals are revised as set forth in the body of this Order. It is further

ORDERED that the effective date for the revised accruals for Florida Power and Light Company and Florida Power Corporation is January 1, 1995. It is further

ORDERED that each company shall make contributions to its decommissioning trust fund on a monthly basis. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that the decisions to revise the decommissioning accruals for each utility are severable for each utility and its respective docket. A protest of any action proposed in this Order shall be specific to the utility and to the action being protested. A protest of one proposed action for one utility shall not delay or prevent the proposed action for the other utility from becoming final. It is further

ORDER NO. PSC-95-1531-FOF-EI
DOCKETS NOS. 941350-EI, 941352-EI
PAGE 17

ORDERED that in the event this Order becomes final, these Dockets should be closed.

By ORDER of the Florida Public Service Commission, this 12th day of December, 1995.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)

BC

Original

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power Corporation to defer filing of nuclear decommissioning cost study until December 29, 2000.

DOCKET NO. 991617-EI
ORDER NO. PSC-99-2491-PAA-EI
ISSUED: December 20, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PETITION
TO DEFER FILING OF NUCLEAR DECOMMISSION STUDY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Due to public health and safety issues, and the amount of money estimated to be necessary to decommission or remove nuclear facilities, we found in Order No. 10987, issued July 13, 1982, that a funded reserve was necessary for the accumulation of the estimated costs of decommissioning each nuclear unit. This reserve was established to assure that the monies necessary for decommissioning would be available at the expiration of the nuclear facility's operating license. Subsequently, by Order No. 21928, issued on September 21, 1989, we approved the external sinking fund method in accordance with the Nuclear Regulatory Commission's final rule, 10 C.F.R. Section 50.75, that requires licensees provide reasonable financial assurance that funds will be available for decommissioning.

DOCUMENT NUMBER-DATE
15471 DEC 20 99
PSC-REPORTS/REPORTING

Recognizing that these estimated decommissioning costs might need revision periodically, we require that the companies file updated decommissioning cost studies at least once every five years. The purpose of these studies is to update cost estimates based on new developments, additional information, technological improvements, and forecasts, to evaluate alternative methodologies, and to revise the annual accrual needed to recover the costs.

Florida Power Corporation (FPC) is scheduled to file its next decommissioning cost study on December 30, 1999. On August 23, 1999, FPC's parent, Florida Progress Corporation, and Carolina Power & Light Company (CP&L) announced a transaction whereby Florida Progress would become a subsidiary of a new holding company for CP&L. The transaction is expected to be completed within one year. On October 18, 1999, FPC filed a petition to defer the filing of its nuclear decommissioning cost study for one year, until December 29, 2000. This Order addresses FPC's request for deferral.

According to FPC's Petition, during the course of preliminary discussions with CP&L representatives, FPC has become aware that the decommissioning costs for CP&L's nuclear plants are significantly lower on a per unit basis than those indicated for its Crystal River Unit 3 nuclear plant (CR3). FPC has not yet determined the specific reasons for this differential in the two utilities' decommissioning costs, nor whether this lower level of cost is realizable at CR3. However, FPC believes that a substantial portion of the differential may be due to differences in study methodology and/or assumptions or to cost savings achievable from multi-unit economies of scale.

FPC states that the deferral would allow the Company the time needed to analyze the factors responsible for the cost differential between CR3 and CP&L's nuclear units, and to incorporate the factors appropriate for CR3 in a revised decommissioning cost study. During the deferral period, FPC proposes to continue the

ORDER NO. PSC-99-2491-PAA-EI
DOCKET NO. 991617-EI
PAGE 3

currently approved annual accrual of \$20,502,310 to its nuclear decommissioning trust funds.

It is our understanding that CP&L has a nuclear decommissioning study currently filed with the North Carolina Public Service Commission (NCPSC). While the NCPSC has not yet completed its review of the study, some differences in assumptions have been noted when compared to the last CR3 study. One area that can represent a significant difference between the annual accrual for CR3 and the CP&L units relates to the assumed fund earnings rate used in the decommissioning accrual determination. The assumed fund earnings rate used in FPC's currently approved accrual is 4.90% compared to the 7.75% earnings rate proposed by CP&L in its most recent studies. All other assumptions held constant, the higher the assumed fund earnings rate, the lower the indicated annual accrual.

Other assumptions that can have a potentially significant impact on the decommissioning accrual include estimates for low-level radioactive waste disposal, escalation rates, and additional dry storage of spent nuclear fuel due to the Department of Energy's failure to meet its deadline for acceptance of spent nuclear fuel.

FPC's Petition raises the concern that the currently approved annual decommissioning accrual may be overstated because the decommissioning cost per unit for the CP&L nuclear units is less than the decommissioning cost for CR3. We believe such a conclusion is premature until a thorough review and analysis of the differences is made. In light of this, we find that FPC's request to defer its decommissioning study until December 29, 2000 is appropriate. Therefore, FPC's request to defer the filing of its nuclear decommissioning cost study until December 29, 2000, is granted.

Based on the foregoing, it is therefore

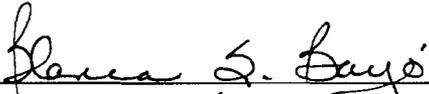
ORDER NO. PSC-99-2491-PAA-EI
DOCKET NO. 991617-EI
PAGE 4

ORDERED by the Florida Public Service Commission that Florida Power Corporation's Petition to Defer the Filing of its Nuclear Decommissioning Study until December 29, 2000 is granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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ORDER NO. PSC-99-2491-PAA-EI

DOCKET NO. 991617-EI

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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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 10, 2000.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rule 25-6.04365,
F.A.C., Nuclear Decommissioning.

DOCKET NO. 000543-EI
ORDER NO. PSC-01-0096-FOF-EI
ISSUED: January 11, 2001

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

NOTICE OF ADOPTION OF RULE

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted Rule 25-6.04365, Florida Administrative Code, relating to nuclear decommissioning, without changes.

The rule was filed with the Department of State on January 10, 2001, and will be effective on January 30, 2001. A copy of the rule as filed with the Department is attached to this Notice.

This docket is closed upon issuance of this notice.

By ORDER of the Florida Public Service Commission, this 11th day of January, 2001.

BLANCA S. BAYÓ, Director
Division of Records & Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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FPSC-RECORDS-REPORTING

25-6.04365 Nuclear Decommissioning.

(1) Purpose. The purpose of this rule is to codify the Commission's policy of requiring each utility that owns a nuclear generating plant to ensure there are sufficient funds on hand at the time of decommissioning to meet all required expenses by establishing appropriate decommissioning accruals. This rule requires each utility to file a Nuclear Decommissioning Study on a regular basis, the purpose of which is to obtain sufficient information to update cost estimates based on new developments, additional information, technological improvements, and forecasts; to reevaluate alternative methodologies; and to revise the annual accrual needed to recover the costs.

(2) Definitions. For the purpose of this rule, the following definitions shall apply:

(a) "Contingency Costs." A specific provision for unforeseeable elements of cost within the defined project scope, which is particularly important where previous experience relating estimates and actual costs has shown that unforeseeable events that will increase costs are likely to occur.

(b) "Decommissioning." The process of safely managing, dismantling, removing, or converting for reuse the materials and

equipment that remain at the nuclear generating unit following its retirement that results in an amendment to the licensing status of a nuclear power plant from operational to possession-only and possibly unrestricted use.

(3) Nuclear Decommissioning Study. Each utility shall file a site-specific nuclear decommissioning study at least once every five years from the submission date of the previous study unless otherwise required by the Commission. At a minimum, each utility's nuclear decommissioning study shall include:

(a) A narrative describing each nuclear unit, including the in-service date, the date of operating license expiration, and the status of any license renewal request.

(b) A list of all entities owning an interest in each nuclear unit, the percentage of ownership by each entity, and documentation showing the status of each entity in providing its share of the total decommissioning costs.

(c) A narrative explaining plans for spent nuclear fuel storage and removal at each nuclear unit, including, at a minimum, the date on-site spent fuel pool storage capacity will be lost, the date spent nuclear fuel is expected to be removed from the plant

site, and the estimated costs for on-site dry storage to accommodate the decommissioning of the unit.

(d) The decommissioning study methodology.

(e) A summary of the major assumptions used in the study.

(f) The methodology selected to decommission each nuclear unit and support for the selection.

(g) The method of providing financial assurance. If funding is selected, show the amounts qualified and nonqualified for each year since the prior study, and also the method assumed in the calculation of the proposed annual accrual.

(h) The total utility and jurisdictional decommissioning cost estimates in current dollars for each unit.

(i) The total utility and jurisdictional decommissioning cost estimates in future dollars for each unit.

(j) For each year, the estimated amount of decommissioning expenditures and the sources of funds.

(k) The projected date each nuclear unit will no longer be included in rate base for ratemaking purposes.

(l) For each nuclear unit, a comparison of the current approved annual decommissioning accruals with those proposed.

Current accruals shall be identified as to the effective date and proposed accruals to the proposed effective date.

(m) The assumed fund earnings rate, net of tax, used in the calculation of the decommissioning accrual and supporting documentation for the rate proposed by the utility.

(n) The methodology and escalation rate used in converting the current estimated decommissioning costs to future estimated decommissioning costs and supporting documentation and analyses.

(o) The annual revenue requirement of the proposed decommissioning cost estimates.

(p) A reconciliation of the decommissioning fund balance and the decommissioning reserve balance as of the effective date of the revised decommissioning accruals proposed by the utility. The reconciliation shall show the fund balances by category. The fund balance may involve estimates.

(q) A summary and explanation of material differences between the current study and the utility's last filed study including, at a minimum, changes in methodology and assumptions.

(r) Supporting schedules, analyses, and data, including the contingency allowance, used in developing the decommissioning cost

estimates and annual accruals proposed by the utility. Supporting schedules shall include the inflation and funding analyses.

(4) Accumulation of Annual Accruals.

(a) The decommissioning annual accrual shall be calculated using the current cost estimates escalated to the expected dates of actual decommissioning.

(b) Decommissioning accruals shall be accumulated monthly based on a Commission approved method to assure that the costs for decommissioning are provided for at the expiration of the nuclear unit's operating license.

(c) A utility shall not change its annual nuclear decommissioning accruals without prior Commission approval.

(5) Nuclear Decommissioning Fund Performance. The Commission will review and evaluate each utility's investment performance to determine whether the decommissioning fund earned at least the rate of inflation.

(6) License Renewal. Each utility shall provide the Director of the Division of Economic Regulation with a written summary of communications concerning major milestones between the Nuclear Regulatory Commission and the utility concerning license renewal within 21 days of receipt or mailing by the utility. Major

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milestones include notice of intent to request a license renewal, submittal of application, issuance of renewal license, and decision to continue or cease operations.

Specific Authority: 350.127(2), F.S.

Law Implemented: 366.041, 366.06(1), F.S.

History: New 01/30/01.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company for approval of annual accrual for Turkey Point and St. Lucie nuclear decommissioning unit costs.

DOCKET NO. 981246-EI

In re: Petition for approval of revised annual accrual for nuclear decommissioning costs by Florida Power Corporation.

DOCKET NO. 001835-EI

In re: Disposition of Florida Power & Light Company's accumulated amortization pursuant to Order PSC-96-0461-FOF-EI.

DOCKET NO. 990324-EI

In re: Determination of appropriate method of recovery for the last core of nuclear fuel for Florida Power & Light Company and Florida Power Corporation.

DOCKET NO. 991931-EI

ORDER NO. PSC-02-0055-PAA-EI

ISSUED: January 7, 2002

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING ACCRUALS FOR NUCLEAR DECOMMISSIONING

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

DOCKET NO. 001835-EI
1/7/02

I. Case Background

A. Nuclear Decommissioning

Decommissioning involves the process of dismantling and removing materials and equipment that are no longer used and useful but which remain following retirement of the nuclear generating unit. While the definition does not include the removal and disposal of spent fuel, it does include on-site storage facilities for spent fuel. Decommissioning amends the licensing status of a nuclear unit from operational to possession-only, and possibly, to unrestricted use.

The Nuclear Regulatory Commission (NRC) accepts the following three decommissioning methods: prompt removal/dismantling (DECON), entombment (ENTOMB) and mothballing with delayed dismantling (SAFSTOR). There is also one alternative to complete decommissioning which involves repowering the electric generating system after the original nuclear steam supply system has been isolated and decommissioned. The NRC has recommended prompt dismantlement absent any clear showing of why a nuclear plant should be decommissioned on a delayed basis.

Prior to 1981, the costs of decommissioning were considered a component (cost of removal) of the depreciation rate design for the nuclear plants in Florida. In 1981, Docket No. 810100-EU(CI) was opened to determine the proper ratemaking and accounting treatment of the costs associated with decommissioning. There we established, for the first time, cost estimates to decommission nuclear facilities as well as the decommissioning methodologies available.

By Order No. 10987, issued July 13, 1982, in Docket No. 810100-EU(CI), the Commission determined that due to the amount of money estimated to decommission or remove these nuclear facilities and the public health and safety issues, a funded reserve, separate from the reserve for depreciation, was necessary for the accumulation of the estimated costs of decommissioning each nuclear unit. The separately funded reserve ensures that the money necessary for decommissioning would be available at the expiration of the nuclear facility's operating license.

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In Order No. 10987, the Commission recognized that the estimated decommissioning costs might need revision periodically; therefore, the companies were required to file updated decommissioning cost studies at least every five years. The purpose of these studies is: 1) to update cost estimates based on new developments, additional information, technological improvements and forecasts; 2) to re-evaluate alternative methodologies; and 3) to revise the annual accrual needed to recover the costs.

Since the 1981 docket, the NRC and this Commission have come to recognize the desirability of performing site-specific cost studies since such studies account for factors unique to the individual nuclear unit. On January 26, 1987, Florida Power Corporation (FPC) filed an updated nuclear decommissioning site-specific study for its Crystal River Unit 3 (CR3) nuclear plant. Similarly, on April 20, 1988, Florida Power & Light Company (FPL) filed nuclear decommissioning site specific studies for its St. Lucie Units 1 and 2 (SL1 and SL2). On June 29, 1988, FPL filed nuclear decommissioning studies for its Turkey Point Nuclear Units 3 and 4 (TP3 and TP4), with revisions to its studies for the SL units. Order No. 21928, issued September 21, 1989, in Docket No. 870098-EI, amended FPC's and FPL's annual jurisdictional accruals to \$11,188,360 and \$37,515,086, respectively.

Subsequently, FPL and FPC filed updated site-specific decommissioning cost studies for their nuclear units on December 30, 1994, in Docket Nos. 941350-EI and 941352-EI, respectively. A major change in those studies was the treatment of the spent fuel generated during the operation of the nuclear plants. While the disposal of spent fuel assemblies (high-level waste) generated during plant operations is not considered a decommissioning expense, the presence of those assemblies on-site does have a bearing on the costs to decommission nuclear facilities. Faced with the uncertainties of the Department of Energy (DOE) meeting the January 31, 1998, deadline for the acceptance of spent nuclear fuel (SNF) or the 2010 date for a permanent high level waste repository, the Commission recognized that spent fuel may have to remain on-site long after decommissioning begins. For this reason, an allowance was made in FPL's and FPC's accruals for on-site dry storage costs. The primary goal in requiring this allowance was to ensure that the money needed to fully decommission a nuclear unit is available when the plants are retired, and recovered from

customers who have benefitted from the low-cost nuclear generation. However, the Commission found that these costs should continue to be reviewed to determine the prudence of their inclusion in the annual accruals. By Order No. PSC-95-1531-FOF-EI, issued December 12, 1995, the Commission revised FPL's and FPC's annual jurisdictional accruals to \$84,024,335 and \$20,502,310, respectively.

The NRC's final rule, 10 C.F.R. Section 50.75, requires that licensees provide reasonable financial assurance that funds will be available for decommissioning through prepayment prior to the start of operation, external sinking fund, a surety method, through insurance or other guarantee method. The rule defines an external sinking fund as

a fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund may be in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities.

Both companies provide for financial assurance through monthly contributions to their nuclear decommissioning trust funds. These nuclear decommissioning funds are held in trust with State Street Bank and Trust Company as trustee. The investments are managed by external investment management firms. FPL and FPC believe that their respective external sinking funds comply with the NRC final rule and the Internal Revenue Service (IRS) requirements. Additionally, FPL and FPC believe that these arrangements provide reasonable financial assurance that funds will be available for decommissioning.

By Order No. 21928, issued September 21, 1989, in Docket No. 870098-EI, the Commission approved the external sinking funding method. In determining the annual provision for decommissioning, the current cost estimate is escalated to the expected dates of actual decommissioning. The escalation rate used can be determined from a variety of sources including a combination of the general economic inflation rates and inflation rates for decommissioning

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labor, transportation and burial of nuclear waste. Once the escalated decommissioning amount is known, a sinking fund annuity is calculated to determine the annual annuity. This annual annuity plus the earnings on the annuities, net of taxes, will grow to the escalated decommissioning amount.

The primary objective of a decommissioning trust fund is to ensure that enough money is on hand at decommissioning to meet all required expenses at the lowest possible cost to utility ratepayers. Because there is no one set of investment policies that will meet this goal with certainty, the management of the fund must be concerned with both the preservation of contributions and the purchasing power of the contributions. In Order No. 21928, we required that the fund's assets earn a consistent positive real return over a market cycle. The imposed minimum fund earnings rate has been at least the rate of inflation, measured by the Consumer Price Index (CPI), over each five-year review period.

The IRS has few requirements pertaining to the control of nuclear decommissioning funds. The IRS Regulations are silent as to how funds qualified under the Internal Revenue Code are to be managed. The IRS does require that, in order for contributions to a Qualified Fund to be deductible for tax purposes, certain issues must be specifically addressed by the Commission. These issues directly result from the decisions the Commission makes in other substantive issues.

Pursuant to Order Nos. 10987 and 21928, FPL and FPC were scheduled to file updated site-specific nuclear decommissioning cost studies in 1999. However, by Order No. PSC-98-0027-FOF-EI, issued January 5, 1998, in Docket No. 970410-EI, FPL was authorized to record additional nuclear decommissioning expenses to correct perceived historical reserve deficiencies. As a result, the company was directed to file its updated decommissioning cost studies by October 1, 1998. Moreover, the nuclear decommissioning accrual was to be recalculated as part of the 1998 studies to reflect the corrected decommissioning reserve position. Accordingly, FPL filed its updated site specific decommissioning cost studies on October 1, 1998, in Docket No. 981246-EI.

Further, Order No. PSC-99-2491-PAA-EI, issued December 20, 1999, in Docket No. 991617-EI, granted FPC an extension of time to file its updated site-specific decommissioning study until December

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29, 2000. The merger with Carolina Power and Light Company (CP&L), that was expected to be completed by August 2000, necessitated the extension. Additionally, the deferral would allow FPC time needed to analyze factors attributing to the decommissioning cost differential between CR3 and CP&L's nuclear plants, and to incorporate factors appropriate for CR3 in a revised cost study.

B. Disposition of Accumulated Nuclear Amortization

Order No. PSC-96-0461-FOF-EI, issued April 2, 1996, in Docket No. 950359-EI, FPL was authorized to record nuclear amortization expense of \$30 million per year, beginning January 1, 1996. Subsequently, Order No. PSC-99-0073-FOF-EI, issued January 8, 1999, in Docket 971660-EI, deferred a decision regarding the allocation of the nuclear amortization accumulated through year-end 1998 until after a final decision in Docket No. 981390-EI, In Re: Investigation into the Equity Ratio and Return on Equity of Florida Power and Light Company. However, at the February 16, 1999 Agenda Conference, the Commission decided to close Docket No. 981390-EI and pursue the related issues in Docket No. 990067-EI, In Re: Petition for a Full Revenue Requirements Rate Case for Florida Power & Light Company.

Subsequently, on March 10, 1999, the parties to Docket No. 990067-EI filed a Joint Motion for Approval of Stipulation and Settlement together with the Stipulation and Settlement (Stipulation). By Order No. PSC-99-0519-AS-EI issued March 17, 1999, the Stipulation was approved. Among other things, the Stipulation terminated the booking of expenses authorized by Order No. PSC-98-0027-FOF-EI, including the annual nuclear amortization expense. However, the Stipulation did not address the disposition of the nuclear amortization accumulated through April 13, 1999, the day before the Implementation Date of the Stipulation. Therefore, a separate docket was opened to address the issue. Further, paragraph 8 of the Stipulation requires FPL's nuclear decommissioning accruals approved by Order Nos. PSC-95-1531-FOF-EI and PSC-95-1531A-FOF-EI, issued December 12, 1995, and December 19, 1995, respectively, in Docket No. 941350-EI not be increased for the term of the Stipulation period, which will end April 15, 2002.

In light of FPC's deferral and FPL's governing Stipulation, FPL updated its decommissioning studies on January 1, 2001. This

provides the opportunity for the Commission to review both the FPL and FPC decommissioning studies at the same time.

C. Last Core of Nuclear Fuel

In Docket No. 990001-EI, In Re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor, FPL presented testimony regarding the issue of recovery of costs associated with the last core of nuclear fuel (Last Core). Order No. PSC-99-2512-FOF-EI, issued December 22, 1999, in Docket No. 990001-EI, determined that a separate docket should be opened to address this issue on a generic basis for both FPC and FPL.

The Commission, FPL, FPC, and the Office of Public Counsel (OPC) have met at various times discussing resolution of the appropriate recovery treatment for the last core of nuclear fuel, EOL M&S inventories, and the disposition of FPL's nuclear amortization issues. The most recent meeting was held November 29, 2001. As a result of these discussions, FPL and FPC do not object to the Commission's accounting or recovery treatment.

The Commission is vested with jurisdiction over these matters through several provisions of Chapter 366, Florida Statutes, including §366.04, §366.05 and §366.06.

II. Decommissioning Cost Studies

Consistent with Order No. 10987 in Docket No. 810100-EU(CI), FPL and FPC have filed updated site specific decommissioning cost studies. The purpose of these studies is to recognize developments and changes impacting decommissioning cost estimates and to also consider such factors as additional information, improvements in technology, and regulatory changes that have transpired since the 1994 studies.

A. Operating Licenses

Each nuclear unit's investment will continue to be included in rate base until expiration of the respective operating license (retirement date). The existing license expiration dates for SL1 and SL2 are March 1, 2016 and April 6, 2023, respectively; CR3 is December 3, 2016. The licenses for TP3 and TP4 were amended in 1994 by the NRC to measure the 40-year operating license for each

The methodology used to calculate the weighted average contingency factors is appropriate; however, the contingency factors shown above will change with any change in decommissioning costs to which the specific contingency estimates are applied. Thus, the approved contingency factors may not always be appropriate, but the methodology used to determine them is reasonable. As such, we find that the contingency allowances included in FPC's and FPL's current decommissioning cost estimates are approved.

III. Revision of Accruals

A. Spent Nuclear Fuel

Under the terms of the Nuclear Waste Policy Act of 1982, the federal government is assigned the responsibility of providing for the permanent disposal of SNF. This legislation also committed the DOE to begin acceptance of SNF no later than January 31, 1998. However, this deadline was not met by the DOE. In fact, the DOE still has not made a recommendation with regard to the suitability of Yucca Mountain, Nevada as a permanent repository site for SNF.

In the last decommissioning cost review in Docket Nos. 941350-EI and 941352-EI, the assumption of the need for interim dry storage was based on industry expectations that the DOE would not have a permanent repository in operation before 2010. Under this circumstance, to permit prompt decommissioning of the unit at the end of operating license, transfer of the SNF for interim dry storage prior to the DOE's acceptance of SNF is the most cost effective option over the long term. Therefore, interim dry storage of SNF after the retirement of each nuclear unit is needed. The Commission decided the following in Order No. PSC-95-1531-FOF-EI:

We agree that an allowance must be made in FPL's and FPC's accruals for on-site dry storage costs. Our primary goal in requiring this allowance is to ensure that the money needed to fully decommission a nuclear unit is available when the plants are retired, and not recovered from customers who have not benefitted from the low-cost nuclear generation. FPL's and FPC's annual accrual amounts must, therefore, include the anticipated cost for dry storage of SNF after retirement of each respective unit. We will continue to review these

amounts in future decommissioning studies in order to determine the prudence of their inclusion.

Subsequent developments validate the prudence of including the costs of interim dry storage. Faced with the costs associated with the interim dry storage, utilities sought relief in the federal courts. On November 14, 1997, the U.S. Court of Appeals issued a decision upholding the fact that the DOE has an unconditional obligation to begin accepting SNF beginning in 1998. However, the decision also stated that the Court lacked authority to order the DOE to begin spent fuel disposal. The DOE continues to maintain that its delayed performance is unavoidable because it does not have an operational repository and does not have authority to provide storage in the interim.

Currently, the DOE has no plans to receive SNF before the year 2010. However, there is speculation that the DOE will not be able to meet that date. FPL asserts that such things as OCRWM funding constraints due to insufficient congressional appropriations indicate a 2015 date may be more feasible. Also, FPL proffers that a possible DOE delay in submitting a repository license application to the NRC until 2004 or 2005, expected litigation with the license application process, and time for NRC hearings not provided in the current scheduling add to concerns with a 2010 date. Additionally, there is concern that the degree of delay caused by any one item could push the date out even further. For these reasons, the Commission agrees with FPL that a conservative assumption at this time for the DOE acceptance of SNF and HLRW is 2015.

In addition, in 1996 the DOE terminated its program to fund MPCs for on-site interim storage of SNF. Both utilities are assumed in their current studies to bear the costs for the storage canisters. They are expected to develop an ISFSI at each of the plant sites under the provisions of Title 10 C.F.R. Part 72. The capital costs of the ISFSI are necessary for interim SNF dry storage after retirement of each nuclear unit. The ISFSI facilities will continue to operate until the completion of SNF transfer to DOE permanent repository. Ultimately, the ISFSI will be decommissioned.

We believe including the costs for interim dry storage of SNF incurred after retirement of each nuclear unit is prudent. If such costs are not included, those costs may have to be borne by those

customers that will not benefit from the power generated by the nuclear units. The major components of the costs associated with the interim dry storage are the ISFSI capital costs, operation costs after the unit retirement, and decommissioning costs when the transfer of SNF to an interim or permanent off-site repository is completed. For FPC's CR3, the contribution to the total decommissioning costs are estimated to be 11.6%, 7.7%, and 0.9% for ISFSI capital, operations, and decommissioning, respectively. For FPL's TP3 and TP4 together, the contribution to the total decommissioning costs are estimated to be 15.0%, 10.7%, and 0.7% for ISFSI capital, operations, and decommissioning, respectively. For FPL's SL1 and SL2 together, the contribution to the total decommissioning costs are estimated to be 4.4%, 3.3%, and 0.6% for ISFSI capital, operations, and decommissioning, respectively.

B. Annual Accrual Necessary to Recover Future Decommissioning Costs

The annual decommissioning accrual amounts are based upon information provided by FPL and FPC in their site-specific cost studies and in their responses to Interrogatories and Production of Document requests.

We find the appropriate jurisdictional annual accrual amounts necessary to recover future decommissioning costs over the remaining life of each nuclear power plant are:

| | <u>Approved Annual Accrual</u> |
|-------|------------------------------------|
| FPL: | |
| TP3 | \$21,815,173 |
| TP4 | 25,220,424 |
| SL1 | 18,683,743 |
| SL2 | <u>12,797,597</u> |
| Total | <u>\$78,516,937</u> |
| FPC: | |
| CR3 | <u>\$7,654,524</u> |

For FPL, the total accrual amount represents a decrease of \$0.8 million compared to the total amount indicated in FPL's study and a decrease of \$5.5 million compared to the total amount approved in Order No. PSC-95-1531-FOF-EI (Order No. 95-1531), which established FPL's current nuclear decommissioning accrual levels.

For FPC, the amount represents a decrease of \$.9 million over the amount requested in FPC's study and a decrease of \$12.8 million compared to the amount approved in Order No. 95-1531.

C. Base Costs of Decommissioning

The companies provided the estimated cost to decommission each of the nuclear units using December 31, 2000 dollar values. These estimates assume a 2015 DOE acceptance date of spent fuel as previously discussed in III. A. and unit-specific contingency allowances as discussed II. I. For comparative purposes, the estimated current cost to decommission each nuclear unit, as of December 31, 1994, as approved in Order No. 95-1531 is listed below.

| | <u>1994 Dollars</u> | <u>2000 Dollars</u> |
|------|---------------------|---------------------|
| FPL: | | |
| TP3 | \$289,465,891 | \$431,060,521 |
| TP4 | 350,841,060 | 493,670,869 |
| SL1 | 342,880,320 | 476,962,657 |
| SL2 | 369,404,320 | 441,467,899 |
| FPC: | | |
| CR3 | \$404,609,597 | \$534,898,000 |

According to the companies, the primary reasons for the net increase in decommissioning costs from 1994 to 2000 were changes in the costs associated with ISFSI and other related expenses, waste recycling, LLRW disposal, removal, staffing, property taxes, and the license termination survey.

D. Cost Escalation Rates

The appropriate escalation rates to use to convert the current decommissioning cost to the future decommissioning cost for each nuclear unit must be determined. The base level costs are in 2000 dollars for both the FPL and FPC studies. The companies used similar methodologies to determine the appropriate escalation rates.

Once the cost of decommissioning a nuclear unit is determined in current (December 31, 2000) dollars, this cost is escalated into future dollars. The determination of the annual accrual amounts then resembles an annuity equation. The question becomes how much money needs to be collected from ratepayers in equal payments, on

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a monthly basis, earning at a given rate, to equal decommissioning costs in future dollars at a future date. The disparity between the accrual amounts proffered by FPL and FPC in their respective studies and the approved amounts result primarily from differences in the escalation rates and the fund earnings rate assumed in the annuity calculation.

TLG provided both companies with estimates of the base costs for each activity. These cost estimates were determined through site-specific cost studies and include a contingency allowance. The FPL study reflects weighted average contingency allowances of 19.59% for TP3, 19.39% for TP4, 20.51% for SL1, and 20.79% for SL2. The FPC study reflects a weighted average contingency allowance of 17.22%.

The analysis performed by FPC breaks the decommissioning process into seven specific stages or activities. The stages are as follows: 1) decontamination; 2) removal; 3) packaging; 4) shipping; 5) burial; 6) staff; and 7) other. Where applicable, each of these activities is separated into one or more sub-components: 1) labor; 2) materials; 3) burial; and 4) other. The analysis performed by FPL breaks the decommissioning process into five more general stages. These stages are: 1) labor; 2) materials; 3) shipping; 4) burial; and 5) other.

Both companies relied upon the Summer 2000 edition of Standard & Poor's (S&P) Data Resources, Inc. (DRI), U.S. Economy, 25-year Focus as the source for their specific inflation measures. The escalation rates are based on the same analyses performed by the companies but have been updated with the inflation measures published in the Summer 2001 edition of S&P's DRI.

Although the site-specific studies identify unique costs associated with each nuclear unit, the homogeneous nature of the burial and shipping requirements, the labor involved, and the materials used in the decommissioning process leads us to believe that the same inflation measures should be used to determine the appropriate escalation rate for each nuclear unit. We recognize the cost characteristics unique to each nuclear unit because the methodology used to calculate the escalation rates rely on site-specific base costs provided by TLG. However, by using the same inflation indices to escalate labor, materials, shipping, and burial costs, we recognize that the costs for these activities

Rather than attempting to set a prospective minimum fund earnings rate which may or may not be reasonable under future economic conditions, we will require that the companies set aside funds sufficient to meet the Commission's best estimate of the decommissioning liability and require the companies to maintain the purchasing power as well as the principal amount of these contributions. The companies' investment performance will be evaluated along with all other decommissioning activities every five years. If it is found that the companies' investment earnings, net of taxes and all other administrative costs charged to the trust fund, did not meet or exceed the CPI average for the period, then we will consider ordering the utility to cover this shortfall with additional monies to keep the trust fund whole with respect to inflation. We therefore find a minimum fund earnings rate equivalent to the level of inflation over each five-year review period would be appropriate.

We approve this approach as reasonable.

IV. Approved Accruals

Based on the current dollar cost to decommission each nuclear unit as determined in TLG's site-specific studies, the unit-specific contingency allowances, the unit-specific escalation rates, the cost of extended storage for spent fuel and assumed a DOE acceptance date for a SNF and HLRW repository, and an assumed fund earnings rate of 4.7% for FPL and 6.0% for FPC, we have determined the appropriate jurisdictional annual accrual amounts necessary to recover future decommissioning costs over the remaining life of each nuclear unit. For comparative purposes, the annual accrual amounts approved in Order No. 95-1531 and the approved annual accrual amounts are listed below. The determination of the annual accrual amounts for each nuclear unit is provided in Attachment B.

| | Order No. <u>95-1531</u> | Approved <u>Accrual</u> |
|------|-----------------------------|----------------------------|
| FPL: | | |
| TP3 | \$17.8M | \$21.8M |
| TP4 | 22.6M | 25.2M |
| SL1 | 24.2M | 18.7M |

| | | |
|-------|----------------|----------------|
| SL2 | <u>19.4M</u> | <u>12.8M</u> |
| Total | <u>\$84.0M</u> | <u>\$78.5M</u> |
| FPC: | | |
| CR3 | <u>\$20.5M</u> | <u>\$ 7.7M</u> |

Finally, a number of factors identified in this issue require specific Commission rulings so that the IRS will have adequate information to determine the appropriate decommissioning cost for tax purposes. We believe that disposition of this issue will satisfy IRS requirements regarding the current and future cost to decommission each nuclear unit, the years the trust funds will be expended, the specific escalation rates for each unit, the assumed fund earnings rate, and the annual accrual amounts for each nuclear unit.

A. Time Periods

The decommissioning funds will be expended over the time periods illustrated below. Upon conclusion of the dry storage period and transfer of all spent fuel assemblies to the DOE, the dry storage compound will be decontaminated and dismantled. The underlying assumptions include a 2015 date for the DOE to begin accepting SNF with higher receipt rates based on the projections reflected in DOE/RW-0510. The entire site will then be available without any NRC restrictions.

| | <u>Years of Fund Expenditures</u> |
|------|-----------------------------------|
| FPL: | |
| TP3 | 2005 - 2045 |
| TP4 | 2005 - 2045 |
| SL1 | 2005 - 2032 |
| SL2 | 2023 - 2032 |
| FPC: | |
| CR3 | 2016 - 2041 |

VI. Materials and Supplies (M&S)

According to FPL, a level of M&S inventories will remain at the end of each nuclear site's life (EOL). EOL M&S inventories consist of spare replacement parts and supplies needing to be kept in inventory to ensure safe and reliable operations. The items

ORDER NO. PSC-02-0055-PAA-EI
DOCKET NOS. 981246-EI, 001835-EI, 990324-EI, 991931-EI
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X. Next Filing

By Order No. PSC-01-0096-FOF-EI, issued January 11, 2001, in Docket No. 000543-EI, the Commission adopted Rule 25-6.04365 (Rule), Florida Administrative Code, relating to nuclear decommissioning. The Rule requires each utility to file a site-specific nuclear decommissioning study update at least once every five years from the submission date of the previous study unless otherwise required by the Commission. Therefore, the next decommissioning cost studies for FPL and FPC should be filed no later than January 1, 2006 and December 29, 2005, respectively. As discussed previously, the studies should also include an update of the amortizations of EOL M&S inventories and the Last Core.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's decommissioning accruals are hereby revised as set forth in the body of this Order. It is further

ORDERED that Florida Power Corporation's decommissioning accruals are revised as set forth in the body of this Order. It is further

ORDERED that Florida Power Corporation file a fund earnings report as set forth in the body of this Order. It is further

ORDERED that the effective date for the revised accruals for Florida Power Corporation is January 1, 2001. It is further

ORDERED that the effective date for the revised accruals for Florida Power & Light Company is May 1, 2002. It is further

ORDERED that Florida Power Corporation and Florida Power & Light Company shall make contributions to their decommissioning trust funds on a monthly basis. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and

ORDER NO. PSC-02-0055-PAA-EI
DOCKET NOS. 981246-EI, 001835-EI, 990324-EI, 991931-EI
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Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 7th day of January, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

KNE

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Florida Power & Light Company for approval of annual accrual for Turkey Point and St. Lucie nuclear decommissioning unit costs.

DOCKET NO. 981246-EI

In re: Petition for approval of revised annual accrual for nuclear decommissioning costs by Florida Power Corporation.

DOCKET NO. 001835-EI

In re: Disposition of Florida Power & Light Company's accumulated amortization pursuant to Order PSC-96-0461-FOF-EI.

DOCKET NO. 990324-EI

In re: Determination of appropriate method of recovery for the last core of nuclear fuel for Florida Power & Light Company and Florida Power Corporation.

DOCKET NO. 991931-EI ✓
ORDER NO. PSC-02-0136-CO-EI
ISSUED: January 30, 2002

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-02-0055-PAA-EI, issued January 7, 2002, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order, in regard to the above mentioned dockets. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-02-0055-PAA-EI has become effective and final. It is further

ORDERED that these dockets shall be closed.

DOCUMENT NUMBER DATE

01149 JAN 30 2002

FPSC-COMMISSION CLERK

ORDER NO. PSC-02-0136-CO-EI

DOCKETS NOS. 981246-EI, 001835-EI, 990324-EI, 991931-EI

PAGE 2

By ORDER of the Florida Public Service Commission, this 30th
day of January, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

KNE

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 judicial review of Commission orders that is available pursuant to Section 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 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 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 Director, Division of the Commission Clerk and Administrative Services 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

DOCKET NO. 000824-EI

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

DOCKET NO. 020001-EI

ORDER NO. PSC-02-0655-AS-EI

ISSUED: May 14, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING SETTLEMENT, AUTHORIZING MIDCOURSE CORRECTION,
AND REQUIRING RATE REDUCTIONS

BY THE COMMISSION:

I. BACKGROUND

Docket No. 000824-EI was opened on July 7, 2000, to review the earnings of Florida Power Corporation (FPC, utility, or company) and the effects of the acquisition of FPC by Carolina Power & Light Company (CPL). The acquisition was consummated on November 30, 2000. By Order No. PSC-01-1348-PCO-EI, issued June 20, 2001, in Docket No. 000824-EI, we directed FPC to file Minimum Filing Requirements (MFRs) to provide this Commission and all other interested parties with the data necessary to begin an evaluation of FPC's level of earnings on a going-forward basis. In addition, FPC was ordered to hold \$113.9 million subject to refund pending a final disposition in Docket No. 000824-EI. We subsequently reduced

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FPSC-COMMISSION CLERK

the amount held subject to refund to \$98 million by Order No. PSC-01-2313-PCO-EI, issued November 26, 2001.

FPC filed its initial set of MFRs and testimony on September 14, 2001, with subsequent filings on October 15, 2001, and November 15, 2001, and rebuttal testimony on February 11, 2002, and March 4, 2002. The intervenors began filing testimony on January 17, 2002, and our staff prefiled testimony on January 28, 2002. Discovery ended on March 13, 2002. The hearing was scheduled to begin on March 20, 2002. On that date, however, the parties filed a Joint Motion To Postpone Scheduled Hearings to afford the parties the opportunity to finalize the terms of a settlement and stipulation. The motion was granted by Order No. PSC-02-0411-PCO-EI, issued March 26, 2002. By Order No. PSC-02-0412-PCO-EI, issued March 26, 2002, the hearing schedule was suspended.

On March 27, 2002, FPC, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group, the Florida Retail Federation, Publix Super Markets, Inc., and Buddy Hansen and Sugarmill Woods Civic Association, filed a Joint Motion for Approval of Stipulation and Settlement and Further Postponement of Hearings and a Stipulation and Settlement. The Stipulation and Settlement, including Exhibit A attached thereto, is attached to this Order as Attachment 1 and is incorporated herein by reference. FPC subsequently filed a Petition to Reduce its Fuel Adjustment Factors on April 8, 2002. This Order addresses both of these filings.

II. STIPULATION AND SETTLEMENT

All parties to Docket No. 000824-EI proffered the Stipulation and Settlement as a complete resolution of all matters pending in that docket. The Stipulation and Settlement was signed by all parties to the proceeding. However, OPC and the Florida Retail Federation have taken no position on the cost of service and rate design matters discussed in Section 16 of the Stipulation. The major elements contained in the Stipulation are as follow:

- \$125 million permanent base rate reduction effective May 1, 2002 (9.25% base rate reduction). (Paragraph 2)

- \$35 million in interim revenues to be refunded through the Fuel and Purchased Power Cost Recovery Clause. (Paragraph 14)
- Implementation of a revenue cap and revenue sharing plan for the remainder of 2002 and calendar years 2003, 2004, and 2005. (Paragraph 6)
- Recovery of the Hines Unit 2 depreciation expense and return on capital, up to the level of fuel savings associated with Hines Unit 2, through the fuel adjustment clause until December 31, 2005. (Paragraph 9)
- Suspension of the accruals for nuclear decommissioning and fossil dismantlement, an annual \$62.5 million reduction of depreciation expense and the discretionary ability to reverse all, or part of, the \$62.5 million annual depreciation expense reduction. (Paragraph 10)
- Discretionary ability to accelerate the amortization of certain specified regulatory assets. (Paragraph 11)
- In the event FPC does not achieve a 20 percent improvement in System Average Interruption Duration Index (SAIDI) during 2004 and 2005, the utility will refund \$3 million for both years in equal amounts to the ten percent of FPC customers served by FPC's worst performing distribution feeder lines. (Paragraph 13)
- Revisions to certain cost of service and rate design matters. (Paragraph 16 and Exhibit A)

As part of the Stipulation, FPC has filed a petition for an \$85 million (\$83.7 million retail) mid-course correction to reduce its fuel cost recovery factors for the remainder of 2002, effective with May Cycle 1 billings. The mid-course correction consists of a \$50 million (\$48.7 million retail) reduction due to decreased fuel costs and the \$35 million interim refund. We address that petition in Section III of this Order.

The proposed Stipulation consists of 18 paragraphs, most of which are self-explanatory. Those provisions which merit comment or clarification are as follow:

ORDER NO. PSC-02-0655-AS-EI
DOCKETS NOS. 000824-EI, 020001-EI
PAGE 11

the evidentiary hearing scheduled in Docket No. 020001-EI, commencing November 20, 2002.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Stipulation and Settlement filed on March 27, 2002, attached hereto as Attachment 1, is approved in its entirety, subject to the clarifications discussed in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that the attachments and exhibit attached hereto are incorporated herein by reference. It is further

ORDERED that Florida Power Corporation's petition for an adjustment to reduce its fuel and purchased power cost recovery factors is granted. It is further

ORDERED that Docket No. 000824-EI shall be closed. It is further

ORDERED that Docket No. 020001-EI shall remain open.

By ORDER of the Florida Public Service Commission this 14th day of May, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

RG

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power Corporation's earnings, including effects of proposed acquisition of Florida Power Corporation by Carolina Power & Light.

Docket No. 000824-EI

STIPULATION AND SETTLEMENT

Florida Power Corporation, the Office of Public Counsel, the Florida Industrial Power Users Group, the Florida Retail Federation, Publix Super Markets, Inc., and Buddy Hansen and Sugarmill Woods Civic Association (collectively, the Stipulating Parties), hereby enter into this Stipulation and Settlement for the purpose of reaching an informal resolution of all outstanding issues in Docket No. 000824-EI pending before the Florida Public Service Commission (the Commission) and, accordingly, stipulate and agree as follows:

1. Upon approval and final order of the Commission, this Stipulation and Settlement will become effective on May 1, 2002 (the "Implementation Date"), and continue through December 31, 2005, except as otherwise provided in Sections 6, 7 and 15 hereof.

2. Florida Power Corporation (FPC) will reduce its revenues from the Sale of Electricity by a permanent annual amount of \$125 million. This reduction will be reflected on FPC's customer bills by reducing all base rate charges for each rate schedule by 9.25%. All other cost of service and rate design matters will be determined in accordance with Section 16. FPC will begin applying the lower base rate charges required by this Stipulation and Settlement to meter readings made on and after the Implementation Date.

3. Effective on the Implementation Date, FPC will no longer have an authorized Return on Equity (ROE) range for the purpose of addressing earnings

proceeding. This Stipulation and Settlement shall terminate upon the effective date of any Final Order issued in such proceeding that changes FPC's base rates.

8. All revenue sharing refunds will be paid with interest at the 30-day commercial paper rate as specified in Rule 25-6.109, Florida Administrative Code, to retail customers of record during the last three months of each applicable refund period based on their proportionate share of base rate revenues for the refund period. For purposes of calculating interest only, it will be assumed that revenues to be refunded were collected evenly throughout the preceding refund period at the rate of one-twelfth per month. All refunds with interest will be in the form of a credit on the customers' bills beginning with the first day of the first billing cycle of the third month after the end of the applicable refund period. Refunds to former customers will be completed as expeditiously as reasonably possible.

9. Beginning with the in-service date of Hines Unit 2 through December 31, 2005, FPC will be allowed to recover through the fuel cost recovery clause a return on average investment and straight-line depreciation expense (but no other non-fuel expense) for Hines Unit 2, to the extent such costs do not exceed the unit's cumulative fuel savings over the recovery period. All costs associated with Hines Unit 2, including those described in this section, are subject to Commission review for prudence and reasonableness as a condition for recovery through the fuel cost recovery clause. The investment for Hines Unit 2 upon which a return is recovered under this section will be excluded from rate base for surveillance reporting purposes during the recovery period.

10. Beginning with the Implementation Date through December 31, 2005, FPC will suspend accruals to its reserves for nuclear decommissioning and fossil

dismantlement. For each calendar year during this period, FPC will also record \$62.5 million as a credit to depreciation expense and a debit to the bottom line depreciation reserve and may, at its option, record up to an equal annual amount as an offsetting accelerated depreciation expense and a credit to the bottom line depreciation reserve. Any such reserve amount will be applied first to reduce any reserve excesses by account, as determined in FPC's depreciation studies filed after the term of this Stipulation and Settlement, and thereafter will result in reserve deficiencies. Any such reserve deficiencies will be allocated to individual reserve balances based on the ratio of the net book value of each plant account to total net book value of all plant. The amounts allocated to the reserves will be included in the remaining life depreciation rate and recovered over the remaining lives of the various assets. Additionally, depreciation rates as addressed in Order No. PSC-98-1723-FOF-EI, Docket No. 971570-EI, will not be changed for the term of this Stipulation and Settlement.

11. FPC will be authorized, at its discretion, to accelerate the amortization of the regulatory assets for FAS 109 Deferred Tax Benefits Previously Flowed Through, Unamortized Loss on Reacquired Debt, and Interest on Income Tax Deficiency over the term of this Stipulation and Settlement.

12. Beginning with meter readings made on and after the Implementation Date, FPC shall effect a mid-course correction of its fuel cost recovery clause to reduce the fuel clause factor based on projected over-recoveries, in the amount of \$50 million, for the remainder of calendar year 2002. The fuel cost recovery clause shall continue to operate as normal, including but not limited to, any additional mid-course adjustments that may become necessary and the calculation of true-ups to

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Progress
Energy Florida, Inc.

DOCKET NO. 050078-EI
ORDER NO. PSC-05-0945-S-EI
ISSUED: September 28, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

ORDER APPROVING STIPULATION AND SETTLEMENT

BY THE COMMISSION:

BACKGROUND

On April 29, 2005, Progress Energy Florida, Inc. (PEF) filed a petition for approval of a permanent increase in rates and charges sufficient to generate additional total annual revenues of \$205,556,000 beginning January 1, 2006. In support of its petition, PEF filed new rate schedules, testimony, Minimum Filing Requirements (MFRs), a Nuclear Decommissioning Study, Fossil Dismantlement Study, and Depreciation Study. By Order No. PSC-05-0694-PCO-EI, issued June 24, 2005, we suspended PEF's proposed new rate schedules to allow our staff and intervenors sufficient time to adequately and thoroughly examine the basis for the proposed new rates.

As part of this proceeding, we conducted service hearings at the following locations in PEF's service territory: Ocala, St. Petersburg, Clearwater, and Tallahassee. A formal administrative hearing was scheduled for September 7 – 16, 2005. The Office of Public Counsel (OPC), AARP, the Florida Industrial Power Users Group (FIPUG), White Springs Agricultural Chemicals, Inc. (WS), the Florida Retail Federation (FRF), Commercial Group (CG), Buddy L. Hansen and the Sugarmill Woods Civic Association, Inc. (SMW), and the Florida Attorney General (AG) were granted intervenor status.

On September 1, the parties filed a joint motion for approval of a Stipulation and Settlement Agreement (Stipulation)¹, between all parties to resolve all matters in this proceeding. Our staff reviewed the Stipulation and Settlement thoroughly, and provided its analysis to us at the start of our technical hearing on September 7, after which time this Commission rendered its vote on the matter.

¹ The Stipulation and Settlement is attached hereto as Attachment A and is incorporated herein by reference.

By this Order, we approve the Stipulation. Jurisdiction over these matters is vested in this Commission by various provisions of Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06, Florida Statutes.

STIPULATION AND SETTLEMENT

The major elements contained in the Stipulation are as follows:

- The Stipulation is effective for a term of four years – the first billing cycle in January 2006 (implementation date) through the last billing cycle in December 2009; however, PEF may extend the term of the Stipulation through the last billing cycle of June 2010, upon written notice to the parties to the Stipulation and to the Commission, on or before March 1, 2009. (Paragraph 1)
- Except as otherwise provided in the Stipulation, PEF will continue its existing base rates in effect for the term of the Stipulation. (Paragraph 2)
- The billing demand credits for interruptible and curtailable customers currently receiving service under PEF's IS-1, IST-1, CS-1 and CST-1 rate schedules, as modified herein, will remain in effect for the term of the Stipulation; however, these rate schedules will continue to be closed to new customers, as defined in the stipulation approved by the Commission in Docket No. 950645-EI. (Paragraph 3)
- No party will petition for a change in PEF's base rates and charges to take effect prior to the minimum term of the Stipulation and Settlement, and, except as provided for in the Stipulation and Settlement, PEF will not petition for any new surcharges to recover costs that traditionally would be, or are presently, recovered through base rates. (Paragraph 4)
- A revenue sharing plan similar to the one contained in PEF's currently operative rate settlement will be implemented through the term of the Stipulation. Retail base rate revenues between specified sharing threshold amounts and revenue caps will be shared as follows: PEF's shareholders will receive a 1/3 share, and PEF's retail customers will receive a 2/3 share. Retail base rate revenues above the specified revenue caps will be refunded to retail customers on an annual basis. (Paragraphs 5 and 6)
- If PEF's retail base rate earnings fall below a 10% ROE as reported on a Commission-adjusted or pro-forma basis on a PEF monthly earnings surveillance report during the term of the Stipulation, PEF may petition to amend its base rates, and parties to the Stipulation are not precluded from participating in such a proceeding. This provision does not limit PEF from any recovery of costs otherwise contemplated by the Stipulation. (Paragraph 7)
- PEF will be permitted clause recovery of incremental costs associated with establishment of a Regional Transmission Organization or costs arising from an order of this Commission or the Federal Energy Regulatory Commission addressing any alternative

configuration or structure to address independent transmission system governance or operation. The parties to the Stipulation may participate in any proceeding relating to the recovery of costs contemplated in this provision for the purpose of challenging the reasonableness and prudence of such costs. (Paragraph 9)

- PEF will continue collecting its storm reserve deficiency as provided in Order No. PSC-05-0748-FOF-EI; however, PEF reserves the right to petition the Commission for approval to either: (a) securitize (1) any or all of its storm reserve deficiency as set forth in Order PSC-05-0748-FOF-EI, or (2) an amount necessary to replenish PEF's reserves for non-catastrophic storms, or both; or (b) increase its base rates or to impose a separate charge to collect and accrue reserves for non-catastrophic storms without the application of any form of earnings test or measure and irrespective of previous or current base rate earnings. Those Parties who have filed notices of appeal of Order No. PSC-05-0748-FOF-EI will withdraw their appeals. In the event PEF collects any remaining storm deficiency or collects and accrues for future non-catastrophic storm events pursuant to Section 366.8260, Florida Statutes, the parties agree to negotiate in good faith for an optional tariff rider whereby a class of demand-metered customers may pay its pro rata share of any remaining uncollected 2004 storm cost deficiency as established in Commission Order PSC-05-0748-FOF-EI through a charge over a period of no more than two years. (Paragraph 10)
- PEF will continue to suspend accruals to its reserve for nuclear decommissioning and fossil dismantlement, and shall apply the depreciation rates consistent with those in PEF's Depreciation Study, as modified by Exhibit 2, attached to the Stipulation. (Paragraph 11)
- Beginning on the commercial in-service date of Hines Unit 4, PEF will further increase its base rates to recover the full revenue requirements of the installed cost of Hines Unit 4 and the unit's non-fuel operating expenses. PEF will recover annually through the Fuel and Purchased Power Cost Recovery Clause (Fuel Clause) the 2006 full revenue requirements of the installed cost of Hines Unit 2, excluding the unit's non-fuel Operations and Maintenance (O&M) expenses. Upon the commercial in-service date of Hines Unit 4, PEF will transfer the recovery of Hines Unit 2's 2006 full revenue requirements, excluding the unit's non-fuel O&M expenses, from the fuel cost recovery clause to base rates by decreasing PEF's fuel charges and increasing its base rates accordingly. (Paragraph 12)
- PEF will be authorized to accelerate the amortization of the regulatory assets for FAS 109 Deferred Tax Benefits Previously Flowed Through, Unamortized Loss on Reacquired Debt, and Interest on Income Tax Deficiency over the term of the Stipulation. PEF's adjusted equity ratio will be capped at 57.83%. (Paragraph 13)
- PEF will continue to operate without an authorized return on equity (ROE) range for the purpose of addressing earnings levels, and the Stipulation's sharing mechanism will be the mechanism to address earnings levels. However, for purposes other than reporting or

ORDER NO. PSC-05-0945-S-EI
DOCKET NO. 050078-EI
PAGE 7

diminishes this Commission's ongoing authority and obligation to ensure fair, just, and reasonable rates. Nonetheless, this Commission has a long history of encouraging settlements, giving great weight and deference to settlements, and enforcing them in the spirit in which they were reached by the parties.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Stipulation and Settlement Agreement and exhibits, filed September 1, 2005, which is attached hereto as Attachment A and incorporated herein by reference, is approved. It is further

ORDERED that PEF shall file, for administrative approval, revised tariff sheets to reflect the terms of the Stipulation. It is further

ORDERED that Docket No. 050078-EI shall be closed.

By ORDER of the Florida Public Service Commission this 28th day of September, 2005.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

(S E A L)

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

JSB

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase of
Progress Energy Florida, Inc.

Docket No. 050078-EI

STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, pursuant to its April 29, 2005 filing, Progress Energy Florida, Inc. ("PEF" or the "Company"), has petitioned the Florida Public Service Commission (the "Commission") for an increase in base rates and other related relief;

WHEREAS, the Company, the Office of Public Counsel ("OPC"), the Attorney General of the State of Florida ("AG"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), the AARP, Sugarmill Woods Civic Association, Inc. ("Sugarmill"), Buddy L. Hansen ("Hansen"), White Springs Agricultural Chemicals, Inc. ("White Springs") and the Commercial Group ("CG") (unless the context clearly requires otherwise, the term Party or Parties means a signatory to this Agreement), have entered into this Stipulation and Settlement Agreement (the "Agreement") for the purpose of reaching an informal resolution of all outstanding issues in Docket No. 050078-EI pending before the Commission and as more fully set forth below;

WHEREAS, PEF and the Parties to this Agreement recognize that this is a period of unprecedented world energy prices and that this Agreement will mitigate the impact of high energy prices;

whereby a class of demand-metered customers may pay its pro rata share of any remaining uncollected 2004 storm cost deficiency as established in Commission Order PSC-05-0748-FOF-EI through a charge over a period of no more than 2 years. If the Parties are able to agree upon such a tariff, PEF agrees to file the tariff for Commission approval and the Parties agree to support the tariff in proceedings before the Commission. If, however, the Commission does not approve the tariff or only approves it with modifications or conditions that are unacceptable to PEF in its reasonable judgment, then PEF shall not be required to put the tariff into effect. Within thirty days of any such denial or modification, the Parties agree to negotiate in good faith a revised tariff and if an agreement is reached to reapply for Commission approval. Revenues collected pursuant to Section 366.8260, F.S. (2005), pursuant to a tariff rider for demand-metered customers or otherwise under this Section 10.c will not be considered in the determination of revenue sharing in Section 6 of this Agreement. In the event PEF does not collect any remaining storm deficiency or does not collect and accrue reserves for future non-catastrophic storm events pursuant to Section 366.8260, F.S. (2005), then PEF shall continue to collect any remaining storm reserve deficiency through the mechanism established in Commission Order PSC-05-0748-FOF-EI and will collect and accrue reserves for future non-catastrophic storms as may be determined by the Commission irrespective of previous or current base rate earnings under Section 10.b(b).

11. Nuclear Decommissioning, Fossil Dismantlement and Depreciation Studies.

a. Beginning with the Implementation Date through the last billing cycle in December of 2009 (or through the last billing cycle in June 2010, if PEF elects to extend this Agreement pursuant to Section 1), PEF:

(1) will suspend accruals to its reserve for nuclear decommissioning, based on its filed Nuclear Decommissioning Study;

(2) will continue to suspend accruals to fossil dismantlement and will withdraw the Fossil Dismantlement Study PEF filed in this docket; and

(3) shall apply the depreciation rates consistent with those set forth in the Depreciation Study that PEF filed in this docket as modified by Exhibit 2 to this Agreement.

b. Approval of this Agreement by the Commission shall constitute approval of the Company's Nuclear Decommissioning and Depreciation Studies. PEF shall file with the Commission updated Nuclear Decommissioning, Fossil Dismantlement and Depreciation Studies on or before July 31, 2009 (or on or before December 31, 2009, if PEF elects to extend this Agreement pursuant to Section 1).

12. a. Beginning on the commercial in-service date of Hines Unit 4, for which the Commission has previously granted a need determination in Order PSC-04-1168-FOF-EI, PEF will further increase its base rates to recover the full revenue requirements of (a) the installed cost of Hines Unit 4 subject to the limitations of Rule 25-22.082(15), F.A.C., and (b) the unit's non-fuel operating expenses. The revenue requirements of the unit will be calculated using an 11.75% ROE and the capital structure as set forth in the test year 2006 MFR Schedule D-1a filed by PEF in Docket No. 050078-EI. Such base rate increase shall be established by the application of a uniform percentage

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Progress Energy Florida, Inc.

DOCKET NO. 090079-EI

In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc.

DOCKET NO. 090144-EI

In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc.

DOCKET NO. 090145-EI

ORDER NO. PSC-10-0131-FOF-EI

ISSUED: March 5, 2010

The following Commissioners participated in the disposition of this matter:

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

APPEARANCES:

R. ALEXANDER GLENN, JOHN T. BURNETT, ESQUIRES, Progress Energy Service Company, LLC, P.O. Box 14042, St. Petersburg, Florida 33733-4042; JAMES MICHAEL WALLS, DIANNE M. TRIPLETT, and MATTHEW BERNIER, ESQUIRES, Carlton Fields, P.A., Post Office Box 3239, Tampa, Florida 33601-3239; RICHARD D. MELSON, ESQUIRE, 705 Piedmont Drive, Tallahassee, Florida 32312
On behalf of Progress Energy Florida, Inc. (PEF).

CHARLES REHWINKEL, Associate Public Counsel, CHARLIE BECK, Deputy Public Counsel, and PATRICIA A. CHRISTENSEN, Associate Public Counsel, ESQUIRES, Office of the Public Counsel, c/o the Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

STEPHANIE ALEXANDER, ESQUIRE, 200 West 200 West College Avenue, Suite 216, Tallahassee, Florida 32301
On behalf of the Florida Association for Fairness in Rate Making (AFFIRM).

CECILIA BRADLEY, Office of the Attorney General, The Capitol – PL01,
Tallahassee, FL 32399
On behalf of the Office of the Attorney General (AG).

JON MOYLE, JR, and VICKI GORDON KAUFMAN, ESQUIRES, 118 North
Gadsden Street, Tallahassee, Florida 32312 and JOHN W. McWHIRTER, JR.,
ESQUIRE, P.O. Box 3350, Tampa, Florida
On behalf of the Florida Industrial Power Users Group (FIPUG).

ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III, ESQUIRES, Young
van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida
32301
On behalf of the Florida Retail Federation (FRF).

AUDREY VAN DYKE and ELLEN EVANS, Naval Facilities Engineering
Command, Litigation Headquarters, 720 Kennon Street, S.E. Building 36, Room
136, Washington Navy Yard, DC 20374
On behalf of the Navy (NAVY).

JAMES W. BREW and F. ALVIN TAYLOR, ESQUIRES, Brickfield, Burchette,
Ritts and Stone, P.C., 1025 Thomas Jefferson St., N.W., Eighth Floor, West
Tower, Washington, D.C. 20007
On behalf of White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate –
White Springs (PCS PHOSPHATE or PCS).

KATHERINE E. FLEMING, CAROLINE M. KLANCKE, KEINO YOUNG, and
ERIK L. SAYLER, ESQUIRES, Florida Public Service Commission, 2540
Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (STAFF).

FINAL ORDER DENYING RATE INCREASE

BY THE COMMISSION:

BACKGROUND

This proceeding commenced on March 20, 2009, with the filing of a petition for a permanent rate increase by Progress Energy Florida, Inc. (PEF or Company). The Company is engaged in business as a public utility providing electric service as defined in Section 366.02, Florida Statutes (F.S.), and is subject to the jurisdiction of this Commission. PEF's service area comprises approximately 20,000 square miles in 35 of Florida's counties. PEF serves more than 1.6 million retail customers.

PEF requested an increase in its retail rates and charges to generate \$499,997,000 in additional gross annual revenues. This increase would allow the Company to earn an overall rate

OPC witness Pous did not recommend any specific adjustments to PEF's fossil dismantlement study. However, witness Pous asserted that if we do decide to address fossil dismantlement in this proceeding, then we should reduce PEF's dismantlement costs by 60 percent.

OPC witness Pous discussed a number of factors that he believes result in excessive demolition cost estimates. First, witness Pous objected to the Company's use of a 20 percent cost contingency factor. Second, witness Pous asserted that the Company dismantlement assumptions are based on "reverse construction," and this demolition approach is a "high side" estimate. Witness Pous further asserted that if a reverse construction demolition approach is employed, a negative contingency factor may be warranted.

Witness Pous argued that PEF has erroneously calculated its expected labor costs. In its responses to OPC discovery, PEF claimed it utilized an average of the local union labor rate and the RS Means Heavy Construction Cost Data 22nd Annual Edition. Witness Pous's analysis shows that only the local union labor rate was utilized.

In response to the labor rate issue addressed by OPC witness Pous, PEF witness Kopp asserts that while there was no error in the calculation of the labor rate, there was an error in its discovery responses to OPC. Witness Kopp confirms that the labor rates included in PEF's 2008 fossil dismantlement study are the local union labor rates only.

PEF witness Kopp believes PEF's requested contingency factor is appropriate irrespective of how OPC witness Pous characterizes such an estimate. Witness Kopp stated that applying a contingency factor to dismantlement cost estimates is a standard industry approach, accounting for issues such as weather delays, which would not be accounted for in a base cost estimate. Witness Kopp believes the Company's approach is consistent with Rule 25-6.04364(2)(a), F.A.C., which permits contingency costs to be included in fossil dismantlement cost estimates for "unforeseeable elements of cost within the defined project scope."

PEF's previous 2004 fossil dismantlement cost study was filed in 2005, but was not placed into effect due to the Stipulation in Order No. PSC-05-0945-S-EI.²⁹ As stated in the Stipulation approved in paragraph 11 of Order No. PSC-05-0945-S-EI, "PEF will continue to suspend accruals to its reserve for nuclear decommissioning and fossil dismantlement, and shall apply the depreciation rates consistent with those in PEF's Depreciation Study, as modified by Exhibit 2, attached to the Stipulation."

The major factors contributing to the 15 percent decrease in the cost estimate between the current study and the previous study are: (1) the completed dismantlement of two plants; (2) changes in inflation rates; and (3) the change in salvage values.

²⁹ Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc.

PEF retained the engineering firm Burns and McDonnell to prepare its 2008 fossil dismantlement study. PEF's 2004 fossil dismantlement study was filed in Docket No. 050078-EI, and was conducted by Sargent & Lundy, LLC. Pursuant to the Stipulation approved by this Commission and in accordance with the terms of the stipulation approved in Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In Re: Petition for rate increase by Progress Energy Florida, the 2004 fossil dismantlement study was withdrawn by the Company.

Rule 25-6.04364, F.A.C., is our dismantlement rule. Of particular interest to this issue are subparts 2 (b) and (c):

(2)(b) "Dismantlement." The process of safely managing, removing, demolishing, disposing, or converting for reuse the materials and equipment that remain at the fossil fuel generating unit following its retirement from service and restoring the site to a marketable or useable condition.

(2)(c) "Dismantlement Costs." The costs for the ultimate physical removal and disposal of plant and site restoration, minus any attendant gross salvage amount, upon final retirement of the site or unit from service.

We find that PEF's site restoration assumptions in its 2008 fossil dismantlement study comport with our rule. Accordingly, since they comport to our rule, we find that the site restoration assumptions made by PEF in its 2008 fossil dismantlement study are reasonable. We believe that OPC witness Pous may be suggesting that we should revisit the site restoration provisions of our dismantlement rule. If this is the case, OPC can, at its option, file a petition for this Commission to revisit Rule 25-6.04364, F.A.C.

VI. NUCLEAR DECOMMISSIONING COST STUDY

A. Nuclear Decommissioning Accruals

We hereby find that the issues associated with PEF's nuclear decommissioning study shall be deferred from the rate case and addressed next year when FPL files its nuclear decommissioning study in December 2010. This will afford this Commission the opportunity to address the appropriateness of each companies' cost of nuclear decommissioning at the same time. PEF is not required to prepare a new site-specific nuclear decommissioning study. However, PEF shall update the current study with the most currently available escalation rates.

B. Future Nuclear Decommissioning Costs for Crystal River Unit 3 (CR3)

We hereby find that the issues associated with PEF's nuclear decommissioning study shall be deferred from the rate case and addressed next year when FPL files its nuclear decommissioning study in December 2010. This will afford this Commission the opportunity to address the appropriateness of each companies' cost of nuclear decommissioning at the same

time. PEF is not be required to prepare a new site-specific nuclear decommissioning study. However, PEF shall update the current study with the most currently available escalation rates.

VII. RATE BASE

A. Non-utility Activities

OPC witness Dismukes stated that the Company did not assign any general plant and administrative and general expenses to the City of Tallahassee's interest in Crystal River Unit 3 (CR3) plant. Witness Dismukes explained that general plant and administrative and general expenses are common costs which essentially support the Company's entire operations. Witness Dismukes continued by stating that these general plant and general expenses are not dedicated to specific groups of customers and that these costs should be distributed to all customers, including those for which the Company uses a direct assignment methodology. Witness Dismukes recommended that we allocate general plant to the Company's Directly Assigned Wholesale operations using its percentage of directly assigned production, transmission and distribution plant to the total company production, transmission, and distribution plant. Witness Dismukes recommended reducing net plant by \$1.8 million based on this methodology. She also recommended reducing retail test year administrative and general expenses by \$6.3 million based on the directly assigned percentage of production, transmission, and distribution expenses to the total Company production, transmission and distribution expenses. Finally, witness Dismukes recommended reducing depreciation expense by \$68,887 and property tax by \$21,433.

PEF witness Slusser did not agree with OPC witness Dismukes' adjustment. He stated that the City of Tallahassee's costs include a share of general plant and administrative and general expenses (A&G) based on the application of a labor ratio to total general plant and A&G. Witness Slusser explained that the City of Tallahassee's responsibility is included through the development and application of a labor ratio. He stated that a labor ratio is a common and recognized basis for allocating general plant and A&G expenses in a cost allocation study. Witness Slusser continued, explaining that the Company's total labor component of O&M assignment for the City of Tallahassee is \$701,000 for the test period. He stated that the Company's total labor component of O&M expenses, excluding A&G, is \$245,846,000 and that this computes to a percentage ratio of 0.285 percent (\$701,000 divided by \$245,846,000). He continued, stating that this amount was included with other wholesale business's responsibility that results in a wholesale labor responsibility of 12.309 percent.

PEF witness Slusser testified that the labor allocator is identified as "K627" and is derived on Schedule 12, pages 1 and 2 of the Jurisdictional Separation Study. He stated that the "K627" allocator can be seen as being applied to General Plant on Schedule 2, page 1, line 27, and is applied to A&G expense on Schedule 6, page 2, line 11 of the Jurisdictional Separation Study.

PEF's asserted that according to Exhibit 152, total system A&G expenses are \$269,669,716 and by dividing the \$269,669,716 by total system energy of 48,574,364 MWH yields a system average A&G cost of \$5.55 per MWH. PEF contended that OPC witness Dismukes would assign \$6,278,578 of A&G costs to the sale of 102,119 MWH to the City of

occurred. With the deferral, PEF will not recover the costs in 2009 and thus there can be no double recovery.

Finally, in its brief OPC requested that we, on our own motion, adjust pension expense for purposes of setting rates in 2010 to a more appropriate level based on current market conditions. While certain parties questioned the reasonableness of PEF's projected 2010 pension expense, there is no evidence in the record regarding a more appropriate expense level. Moreover, no party raised an issue to make an adjustment to the Company's proposed jurisdictional pension expense for 2010 of \$27.1 million. As a result, there is no basis for the action OPC has requested in its brief related to the 2010 pension expense.

For the reasons discussed above, we find that the deferral of pension expenses does not violate the terms of the 2005 Stipulation and Order, does not constitute retroactive ratemaking, and will not lead to double recovery. Accordingly, we find that only the retail portion of PEF's actual 2009 pension expense, estimated to be \$31.5 million, shall be deferred as a regulatory asset (2009 Pension Regulatory Asset). On an annual basis, PEF shall use any pension expense levels below the allowance provided for in rates in the 2010 base rate proceeding in Docket No. 090079-EI to write-down the 2009 Pension Regulatory Asset. In the event such write-downs are insufficient to fully amortize the 2009 Pension Regulatory Asset, PEF shall not recover this item through a base rate case prior to 2015. Finally, we find that PEF shall not earn a carrying charge on this regulatory asset.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Progress Energy Florida, Inc.'s Petition for Rate Increase is hereby denied as set forth herein. It is further

ORDERED that each of the findings made in the body of this Order are hereby approved in every respect. It is further

ORDERED that all matters contained in the appendix, attachments, and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that no refund of the interim increase approved by Order No. PSC-09-0413-PCO-EI, issued June 10, 2009, shall be required. It is further

ORDERED that the revised rates and charges shall become effective for meter readings made on or after February 10, 2010. It is further

ORDERED that Progress Energy Florida, Inc. shall review witness Pollock's alternatives related to the use of a load factor adjustment in the application of the IS-2 credit, and provide an analysis to this Commission for review when it submits its demand-side management programs for approval following the DSM goal setting proceeding. It is further

ORDERED that Progress Energy Florida, Inc. shall file, within 90 days after the date of the Final Order in this docket, a description of all entries or adjustments to its annual report, earnings surveillance reports, and books and records that will be required as a result of the findings made in this docket. It is further

ORDERED that upon expiration of the period for appeal these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of March, 2010.

ANN COLE
Commission Clerk

By: /s/ Dorothy E. Menasco
Dorothy E. Menasco
Chief Deputy Commission Clerk

This is an electronic transmission. A copy of the original signature is available from the Commission's website, www.floridapsc.com, or by faxing a request to the Office of Commission Clerk at 1-850-413-7118.

(S E A L)
KEF

CONCURRENCE AND DISSENT BY: CHAIRMAN ARGENZIANO

CONCURRENCE BY: COMMISSIONER SKOP

DISSENTS BY: COMMISSIONER EDGAR
COMMISSIONER STEVENS
COMMISSION KLEMENT

CHAIRMAN ARGENZIANO, concurring in part and dissenting in part:

I concur with the decisions of the majority with respect to issues 8-14, 47, 59, and 66, and dissent with respect to issues 15, 119, and 120.

I. Issues 8-14: Calculated Theoretical Reserves

Of the \$97.35 million at stake on depreciation matters, \$70 million of the requested increase is attributable to plant life-span decisions.⁷⁸ PEF failed to carry its burden of proof on these matters.

PEF's depreciation study failed to comply with Section (6)(f) of Rule 25-6.0436, Florida Administrative Code, in failing to provide an explanation and justification for each study

⁷⁸ TR 3197.

PROGRESS ENERGY FLORIDA, INC.
DOCKET NO. 090079-EI
STIPULATED ISSUES

The parties have reached stipulations on several issues. These stipulations fall within one of two categories, as listed below. "Category 1" stipulations reflect the agreement of PEF, Staff, and at least one of the intervenors in this docket. Intervenors who have not affirmatively agreed with a particular Category 1 stipulation but otherwise take no position on the issue are identified in the proposed stipulation. "Category 2" stipulations reflect the agreement of PEF and Staff where no other party has taken a position on the issue.

Issue 2: Is PEF's projected test period of the twelve months ending December 31, 2010 appropriate? (Category 1 Stipulation)

Approved Stipulation: Yes. The twelve months ended December 31, 2010 is the appropriate test year. (AFFIRM, FIPUG, NAVY, and PCS did not affirmatively stipulate to this issue, and took no position.)

Issue 3: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting? (Category 2 Stipulation)

Approved Stipulation: The appropriate inflation, customer growth and other trend factors for use in forecasting are those included in the MFRs, as filed.

Issue 4: Are PEF's forecasts of customer growth, KWH by revenue class, and system KW for the projected test year appropriate? (Category 2 Stipulation)

Approved Stipulation: Yes.

Issue 5: Are PEF's forecasts of billing determinants by rate class for the projected test year appropriate? (Category 2 Stipulation)

Approved Stipulation: Yes.

Issue 7: Should the current-approved depreciation rates, capital recovery schedules, and amortization schedules be revised? (Category 1 Stipulation)

Approved Stipulation: Yes. The parties' positions on how they should be revised are set forth in subsequent issues. (AFFIRM did not affirmatively stipulate to this issue, and took no position.)

Issue 16: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules? (Category 1 Stipulation)

Approved Stipulation: The implementation date should be January 1, 2010. (AFFIRM did not affirmatively stipulate to this issue, and took no position.)

Issue 22: Should the currently approved annual nuclear decommissioning accruals be revised? (Category 1 Stipulation)

Approved Stipulation: No. The issues associated with PEF's nuclear decommissioning study should be deferred from the rate case and addressed next year when FPL files its nuclear decommissioning study in December 2010. This will afford the Commission the opportunity to address the appropriateness of each companies' cost of nuclear decommissioning at the same time. PEF will not be required to prepare a new site-specific nuclear decommissioning study. However, PEF will be required to update the current study with the most currently available escalation rates. (AFFIRM, AG, and NAVY did not affirmatively stipulate to this issue, and took no position.)

Issue 23: What is the appropriate annual decommissioning accrual in equal dollar amounts necessary to recover future decommissioning costs over the remaining life Crystal River Unit 3 (CR3)? (Category 1 Stipulation)

Approved Stipulation: The issues associated with PEF's nuclear decommissioning study should be deferred from the rate case and addressed next year when FPL files its nuclear decommissioning study in December 2010. This will afford the Commission the opportunity to address the appropriateness of each companies' cost of nuclear decommissioning at the same time. PEF will not be required to prepare a new site-specific nuclear decommissioning study. However, PEF will be required to update the current study with the most currently available escalation rates. (AFFIRM, AF, and NAVY did not affirmatively stipulate to this issue, and took no position.)