

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: July 20, 2010
AT (OFFICE): NHPUC

FROM: *SEM*
Steven E. Mullen, Assistant Director – Electric Division

SUBJECT: DE 10-062, Florida Power & Light – Motion to Amend Financing
Order No. 24,935

TO: Commissioners
Debra A. Howland, Executive Director



On March 18, 2010, Florida Power & Light Company (FPL) filed a Motion to Amend the Financing Order, Order No. 24,935, issued January 30, 2009 in Docket No. DE 08-164. In that docket, FPL requested and received approval from the New Hampshire Public Utilities Commission (Commission) to obtain loans from FPL Group Capital, Inc.¹ (FPL Group Capital) in an aggregate principal amount not to exceed \$36 million for the purpose of making specific upgrades to the transmission substation (Substation) located in Seabrook, NH. In its current motion, FPL states that the costs of those improvements “are likely to be as high as \$63.0 million”² and requests that the Commission amend its prior order to allow for an increase in the financing necessary to fund the upgrades. FPL, through FPL-New England Division (FPL-NED), owns³ and operates the Substation located on the grounds of the Seabrook Station nuclear power plant in Seabrook, NH.⁴ FPL-NED is a separate division of FPL created for the purpose of keeping the Seabrook transmission substation operationally and financially independent from FPL’s other utility operations. Included in its filing were the supplemental testimony⁵ of William C. Locke, Manager of Transmission Services for FPL, a copy of the approval of the Board of Directors and an amended E-22 form.

¹ FPL Group Capital, Inc. is a wholly-owned subsidiary of FPL Group, Inc. that holds the capital stock of, or has equity interests in FPL Group’s operating subsidiaries other than FPL and provides funding for those subsidiaries.

² Motion at 2.

³ FPL owns 88.23% of the transmission substation and is one of several co-owners.

⁴ Recently approved by the Commission is a joint request by FPL and New Hampshire Transmission, LLC (NHT) for approval of the transfer of ownership of the Substation from FPL to NHT (See Order No. 25,105 (May 26, 2010) in Docket No. DE 10-042). Although the motion to amend the financing order was filed by FPL, with the transfer of ownership of the Substation to NHT any order issued in this proceeding would fully apply to NHT. For purposes of consistency with the filed motion, reference will be made to “FPL” throughout this recommendation.

⁵ Although Mr. Locke’s testimony was labeled “supplemental,” that is an apparent reference to the prior docket, DE 08-164. Mr. Locke’s testimony is the initial testimony submitted in the current proceeding, DE 10-062.

FPL made its filing in accordance with the terms and conditions of a settlement agreement approved by the Commission in Docket No. DE 03-186 (Order No. 24,321, May 7, 2004). In that proceeding, the 88.23% ownership share in the Substation was transferred from FPL Energy Seabrook, LLC (one of the co-owners of Seabrook Station) to FPL-NED. Among the provisions agreed to by FPL in that settlement were:

- “Being subject to and complying with all laws and regulations applicable to the construction, operation and use of the Seabrook Transmission Substation pursuant to RSA 374-A:7, II(b)⁶ or any successor statute; and
- With respect to any financing of FPL-NED’s interest in the Seabrook Substation, including any borrowing or the issuance of any notes, bonds or other indebtedness or securities of any nature, being subject to the provisions of RSA 369 and other applicable regulatory laws of New Hampshire unless FPL or FPL-NED files with the Commission the appropriate certification of another regulatory agency as set forth in RSA 374-A:7, II(c) or any successor statute.”

The E-22 form was filed in compliance with the first provision noted above and in accordance with NH Code Admin. Puc 308.07. The motion to amend the financing order was filed in compliance with the second above provision.

Having reviewed the filing, Staff recommends the Commission grant FPL’s motion to amend Order No. 24,935 to allow FPL to borrow up to \$63 million from FPL Group Capital to finance the planned improvements at the Substation for the reasons described below. In terms of timing, some of the construction work has already taken place and the remaining work is scheduled to be completed at a time that will coincide with a scheduled refueling outage at Seabrook Station in April 2011. FPL has not requested a specific date by which it would need Commission approval, only that “the Commission issue this order as soon as reasonably possible.”⁷

Summary of FPL’s Description of the Cost Increases

In support of its petition, FPL included testimony from William C. Locke, Jr., Manager of Transmission Services for FPL. Mr. Locke’s testimony provided an explanation of the need for an increased amount of financing related to upgrades of the transmission substation. In addition, FPL provided a copy of the Unanimous Consent of Directors in Lieu of Meeting (Exhibit B) with accompanying Amendment No. 1 to the Line of Credit Agreement and Security Agreement and a revised Form E-22.

Mr. Locke explained that FPL is in the process of performing upgrades at the Substation that involve replacing aging equipment and addressing certain design issues. According to Mr. Locke, at the time of the filing in DE 08-164, it was expected that the costs related to the project would not exceed \$36 million. However, he stated that it later

⁶ RSA 374-A:7 addresses the regulation of foreign electric utilities.

⁷ Motion at 3.

became apparent that \$36,000,000, which was an initial budget grade estimate, would be insufficient to complete the project. FPL put forth a number of factors that have resulted in increased costs:

- The construction contract had not yet been finalized at the time of preparing the \$36,000,000 budget estimate;
- The full impact of the design requirements, given the compact footprint of the Substation, was not fully contemplated nor factored into the estimates;
- FERC Standards of Conduct, that prohibit the sharing of information between FPL and personnel at the Seabrook Station nuclear plant, resulted in costs related to nuclear oversight and coordinating activities with a Seabrook Station refueling outage not being fully incorporated;
- Significantly more steel was required than originally anticipated; and
- Contractor costs increased significantly due to such things as additional structure costs, technical changes, and other necessary increases in time and labor.

According to FPL, as a result of the above factors, total project costs have increased from \$36,000,000 to \$63,000,000.⁸ FPL stated that work on the project is timed to coincide with scheduled refueling outages at the Seabrook Station nuclear plant, with certain preparation work performed in advance of those outages. Work on the project is scheduled to be completed in two phases. The first phase of the project commenced in March 2009 with certain structural and electrical installations beginning in June 2009. Phase one of the project was completed during the October 2009 refueling outage and, according to FPL, during the April 2011 refueling outage the second phase of the project will be completed.

Financing the Project

As described in the petition and the Unanimous Consent of Directors in Lieu of Meeting, FPL Group Capital has agreed to make loans via an increase to an existing line of credit agreement to FPL in an aggregate principal amount outstanding at any one time not to exceed \$63,000,000. The loans are to be payable on demand with the funds to be used to acquire goods, equipment, fixtures and other property for use in connection with the Substation. Other than the increase in the borrowing limit from \$36,000,000 to \$63,000,000, FPL is not requesting any changes to the other terms and conditions except as specified in Amendment No. 1 to the Line of Credit Agreement and Security Agreement. Amendment No. 1 incorporates changes to the overall borrowing limit, description of additional equipment and the identification of certain equipment as “three phase” where the earlier documents had not included that description.

⁸ A detailed breakdown of the \$63,000,000 was provided as Attachment A to Mr. Locke’s testimony.

Staff Recommendation

As noted in its recommendation in FPL's prior financing proceeding, Docket No. DE 08-164, Staff views FPL's financing as somewhat different from a "typical" financing petition to be considered by the Commission for an electric utility. Typically, such petitions are received from a Commission-regulated distribution utility, with resulting implications to the utility's capital structure, cost of capital and, therefore, revenue requirements. In this case, however, while there are the same implications to FPL-NED's cost of service, the resulting revenue requirements and customer rates fall under the purview of the FERC as FPL-NED is a transmission utility. FPL will be reimbursed for some of its costs related to the upgrade project by the other co-owners⁹ who collectively own the remaining 11.77% of the transmission substation. Monthly funding will be requested from those co-owners based on the monthly cash flow projections related to the project. As for the remainder of its costs, FPL-NED plans to seek recovery through its RNS rates for any of the new or upgraded facilities considered Pool Transmission Facilities (PTF). For those facilities not considered PTF, FPL-NED will recover the related costs from its one local transmission customer, NextEra Seabrook¹⁰, through a combination of direct assignment charges and LNS rates pursuant to the ISO-NE tariff. While the addition of approximately \$27,000,000 of plant to rate base along with an additional \$27,000,000 of debt will obviously have some cost implications to those paying rates charged by FPL – now NHT – those rates are beyond the Commission's jurisdiction.

The present filing is in accordance with the terms of the settlement agreement in DE 03-186 as well as RSA 369 and RSA 374-A:7. Having reviewed the specifics of the petition including the requested changes to the Commission's Order No. 24,935 as well of the proposed uses of the funds, Staff views the request as reasonable and necessary for FPL to complete the necessary upgrades to the Substation. Therefore, Staff recommends approval of the petition through an order *nisi*. With the Commission's recent approval of the transfer of ownership of the Substation from FPL to NHT, the financing order should also reflect that change.

Please let me know if you have any questions or would like to discuss this further.

cc: Tom Frantz
Suzanne Amidon

⁹ The co-owners are Massachusetts Municipal Wholesale Electric Company, Taunton Municipal Lighting Plant and Hudson Light & Power Department.

¹⁰ NextEra Seabrook is the owner of 88.23% of the Seabrook nuclear generating station and was formerly known as FPL Energy Seabrook.