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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Investigation into the equity ratio and return on equity of Florida Power & Light Company

Docket No. 981390-EI

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PETITION ON PROPOSED AGENCY ACTION

Petitioners, Florida Alliance for Lower Electric Rates Today ("ALERT") and Georgia-Pacific Corporation ("Georgia-Pacific"), file this Petition on Proposed Agency Action pursuant to Sections 120.569 and 120.57(1), Florida Statutes (1998 Supp.), and Rules 25-22.036 and 25-22.029, Florida Administrative Code, and in support allege as follows:

1. Petitioners request a formal administrative hearing under Section 120.57(1), Florida Statutes (1998 Supp.), with regard to Order No. PSC-98-1748-FOF-EI, entitled "Notice of Proposed Agency Action - Order Approving Proposal Concerning Return on Equity and Equity Ratio" ("the PAA") issued by the Florida Public Service Commission ("Commission") on December 22, 1998 in the above-styled docket. ALERT received notice of the Commission's

ACK 3 decision in this matter on or about December 23, 1998 by a copy of the PAA.

APP 2. Petitioners are ALERT, whose address is 106 East College Avenue, Suite 900, CAE Tallahassee, Florida 32301, and Georgia-Pacific, whose address is 133 Peachtree Street NE, CMU Atlanta, Georgia 30303. For purposes of service of all pleadings and other documents in these CTR 1

EAG 1 proceedings, the address of the Petitioners shall be that of their undersigned counsel

LEG 5 3. ALERT is an association of commercial and industrial electric ratepayers and LIN OPC business associations whose members are electric ratepayers. ALERT is substantially affected by RCH 1

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the PAA because a substantial number of its members are headquartered in or have facilities located in Florida Power and Light Company's ("FPL") service territory and the PAA denies ALERT's members an electric base rate reduction and denies them a refund for amounts overcharged by FPL in the past.

4. Georgia-Pacific is a Georgia corporation with Florida operations located in FPL's service territory and is substantially affected by the PAA because it denies Georgia-Pacific an electric base rate reduction and denies it a refund for amounts overcharged by FPL in the past.

5. The ultimate facts which entitle Petitioners to relief are as follows:

a. On or about October 22, 1998, Commission staff requested the Commission to hold a hearing to determine the appropriate equity ratio and return on equity ("ROE") for FPL.

b. On November 3, 1998, the Commission deferred ruling on whether to grant a hearing and directed staff and FPL to attempt to settle the issues raised by staff's hearing request.

c. On December 22, 1998, the Commission entered the PAA which approved a settlement proposal by FPL.

d. FPL's proposed authorized "adjusted" equity ratio is excessive. The use of an adjusted equity ratio and the method of calculating such adjusted equity ratio allows FPL to charge rates which are not fair and reasonable.

e. The proposed authorized ROE is excessive and allows FPL to charge rates which are not fair and reasonable.

f. The proposed extension of the amortization plan outlined in Order No. PSC-98-0027-FOF-EI ("the Accelerated Depreciation Plan") is improper because such plan is being used by FPL to accelerate depreciation and amortization in order to reduce its so-called "stranded

costs" which would allegedly result in the event of retail electric competition. The Florida Legislature has not made any determination to allow retail competition in Florida and no determination has even been made whether FPL would have any stranded costs if retail competition is allowed. Thus, FPL is recovering its alleged stranded costs from its current ratepayers and such recovery denies Petitioners a fair and reasonable base rate.

g. The creation of a "regulatory liability account" for the recording of additional expenses is improper because it allows FPL to continue to hide its over-earnings rather than reduce its rates.

h. FPL's excessive ROE and equity ratio have resulted in substantial over-earnings which should be refunded to FPL's customers and which should be reduced in the future by lowering FPL's electric base rates for all classes of customers. The proposal to reduce such over-earnings by recording additional amounts of depreciation and amortization in the Accelerated Amortization Plan does not result in any benefit to FPL customers.

6. The statutes and rules which entitle Petitioners to relief include Sections 366.01, 366.03, 366.05, 366.06, 366.07, 366.076, Florida Statutes, and Rules 25-6 and 25-22, Florida Administrative Code.

7. The following are issues of disputed material fact which require determination by the Commission in a formal administrative hearing:

a. Whether the ROE and equity ratio authorized by the Order are excessive and result in base rates which are not fair and reasonable.

b. Whether the method of calculating FPL's adjusted equity ratio results in base rates which are not fair and reasonable.


c. Whether FPL has earned more than the fair rate of return last authorized by the Commission, what is the amount of such over-earnings, and what is the appropriate disposition of such over-earnings.

d. Whether FPL has accelerated its depreciation and amortization rates for certain assets in order to recover its stranded costs in advance of retail electric competition.

e. Whether the creation of a regulatory liability account allows FPL to hide continued over-earnings and charge base rates which are not fair and reasonable.

WHEREFORE Petitioners request that the Commission hold a formal administrative hearing pursuant to Section 120.57(1), Florida Statutes, to address the issues raised in this Petition.

Dated this 12 day of January, 1999.


J. Michael Huey (Fla. Bar # 0130971)
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CERTIFICATE OF SERVICE

The undersigned certifies that the original and twelve copies of this Petition have been furnished by hand-delivery to the Public Service Commission, Director, Division of Records and Reporting, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850, and that copies have been served by U.S. Mail this 12th day of January, 1999, on the following parties of record in this docket:

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