

Dorothy Menasco

080677-EI

**From:** Hayes, Annisha [AnnishaHayes@andrewskurth.com]  
**Sent:** Tuesday, July 28, 2009 3:08 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Anna Williams; Bethany Burgess; Brian Armstrong; Cecilia Bradley; Jack Leon; Jean Hartman; John McWhirter; John T. Butler; Jon Moyle; Joseph McGlothlin; Lisa Bennett; Marcus Braswell; Martha Brown; Natalie Smith; Purdy, Lisa M.; Robert Scheffel Wright; Robert Sugarman; Spina, Jennifer; Sundback, Mark F.; Thomas Saporito; Vicki Kaufman; Wade Litchfield; Wiseman, Kenneth L.  
**Subject:** Docket 08677-EI SFHHA Preliminary Issues List  
**Attachments:** SFHHA PRELIMINARY ISSUES LIST.doc

Electronic Filing

a. Person responsible for this electronic filing:

Kenneth L. Wiseman  
 Andrews Kurth LLP  
 1350 I Street, NW  
 Suite 1100  
 Washington, DC 20005  
 202-662-2715 (phone)  
 202-662-2739 (fax)

b. Docket No. 080677-EI.

c. Document being filed on behalf of South Florida Hospital and Healthcare Association (SFHHA).

d. There is a total of 8 pages.

e. The document attached for electronic filing is South Florida Hospital and Healthcare Association's Preliminary Issues List, Pending Completion of Discovery.

(See attached Request of SFHHA Preliminary Issues List.doc)

Thank you for your attention and cooperation to this request.

Regards.  
 Annisha Hayes  
 AndrewsKurth, LLP  
 1350 I Street, NW  
 Suite 1100  
 Washington, DC 20005  
 202-662-2783  
 202-662-2739 (fax)  
 ahayes@andrewskurth.com  
 www.andrewskurth.com

DOCUMENT NUMBER - DATE  
 07715 JUL 28 09  
 FPSC-COMMISSION CLERK

The information contained in this e-mail and any attachments to it may be legally privileged and include confidential information intended only for the recipient(s) identified above. If you are not one of those intended recipients, you are hereby notified that any dissemination, distribution or copying of this e-mail or its attachments is strictly prohibited. If you have received this e-mail in error, please notify the sender of that fact by return e-mail and permanently delete the e-mail and any attachments to it immediately. Please do not retain, copy or use this e-mail or its attachments for any purpose, nor disclose all or any part of its contents to any other person. Thank you.

7/28/2009

Any tax advice in this e-mail (including any attachment) is not intended or written to be used, and cannot be used, by any person, for the purpose of avoiding penalties that may be imposed on the person. If this e-mail is used or referred to in connection with the promoting or marketing of any transaction(s) or matter(s), it should be construed as written to support the promoting or marketing of the transaction(s) or matter(s), and the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida  
Power & Light Company

§  
§  
§  
§  
§  
§

Docket No.: 080677-EI

SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S  
PRELIMINARY ISSUES LIST, PENDING COMPLETION OF DISCOVERY

South Florida Hospital and Healthcare Association ("SFHHA") hereby files its Preliminary Issues List. Of course, issues identified cannot reflect the results of discovery yet to be obtained. Therefore, SFHHA reserves its rights to modify the interim list of issues set out herein.

TEST YEAR

- ISSUE 1. Should FPL be permitted to include a second base rate increase supported by a 2011 test year?
- ISSUE 2. Is it appropriate to utilize a second consecutive test period, as a matter of regulatory policy or considering the particular facts of this case involving the worst recession since World War II?

GENERATION BASE RATE ADJUSTMENT

- ISSUE 3. Should FPL be permitted to adopt a Generation Base Rate Adjustment ("GBRA")?
- ISSUE 4. Should the GBRA be adopted in this rate case for FPL to recover new generation and related transmission costs?
- ISSUE 5. Is the GBRA an appropriate mechanism for cost recovery, when it fails to consider cost reductions that FPL may achieve in other areas?
- ISSUE 6. Is the GBRA an appropriate mechanism for the cost recovery, when revenue requirements for new generation and transmission facilities are implemented at their peak levels without any adjustment for future reductions (e.g., accumulated depreciation)?
- ISSUE 7. Is it appropriate for FPL to implement the GBRA without a tariff or detailed support for the GBRA mechanism?

DOCUMENT NUMBER-DATE

07715 JUL 28 8

- ISSUE 8.** Is it appropriate for FPL to use a 55.8% common equity ratio when calculating its GBRA, or should that serve as a ceiling, which can be reduced when FPL's equity component is reduced?
- ISSUE 9.** Is it appropriate for FPL to use an "incremental" cost of debt rather than a weighted average cost of debt when calculating its GBRA?
- ISSUE 10.** Should FPL include short term debt in its rate of return calculation for its GBRA?
- ISSUE 11.** Should FPL include Accumulated Deferred Income Taxes in its capital structure for its GBRA calculations?
- ISSUE 12.** Should FPL use a 40 year life for the West County Energy Center 3 ("WCEC 3"), as opposed to a 25 year life, when calculating depreciation expenses in its GBRA?

**OPERATING INCOME**

- ISSUE 13.** Is FPL's requested \$408.294M increase from actual 2008 O&M expenses appropriate?
- ISSUE 14.** Is it appropriate to forecast substantial growth in FPL's O&M expenses, when historically FPL's non-fuel O&M expense growth has been less than the yearly increase in the CPI and FPL's O&M expenses in the first quarter of 2009 actually decreased by \$38M compared to the first quarter of 2008, the historic test year?
- ISSUE 15.** Is it appropriate for FPL to recover forecasted O&M expenses that have not been justified by known and measurable changes?
- ISSUE 16.** Should the Commission employ a top down and/or a bottom up approach to estimating growth in FPL's O&M expenses?
- ISSUE 17.** Should FPL reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs?
- ISSUE 18.** Is it appropriate for FPL to increase its forecasted O&M Expenses due to estimated needs for nuclear production staffing?
- ISSUE 19.** Should FPL's revenue requirement reflect refunds associated with FPL's DOE settlement?
- ISSUE 20.** What amount of FPL's refund from DOE should be reflected in the test year revenue requirement?
- ISSUE 21.** Should FPL include the pro rata amount of estimated savings from the development of Advanced Metering Initiative meters and related infrastructure in its revenue requirement?

- ISSUE 22.** Should developments costs associated with FPL's new customer information system be capitalized, rather than expensed, or be deferred as a regulatory asset for ratemaking purposes? If treated as a regulatory assets or capitalized, what period of time should it be recovered?

### **STORM DAMAGE EXPENSES**

- ISSUE 23.** Should FPL be permitted to reestablish an annual accrual for a storm damage reserve, while continuing to collect a storm damage surcharge? If so, what level is appropriate?

- ISSUE 24.** Is it appropriate for FPL to recover storm damage expenses through its base rates?

- ISSUE 25.** Is the proposed \$148.667M storm damage expense amount appropriate?

### **DEPRECIATION EXPENSE**

- ISSUE 26.** Should FPL be permitted to collect depreciation expense for its new Customer Information System prior to its implementation date?

- ISSUE 27.** Should FPL's depreciation expenses be reduced for the effects of its capital expenditure reductions?

- ISSUE 28.** Should FPL's depreciation reserve surplus be amortized over five years as a reduction to depreciation expense?

- ISSUE 29.** Is it appropriate for FPL to accelerate the depreciation of the Cape Canaveral and Riviera facilities by amortizing their remaining net book value over four years?

- ISSUE 30.** Is it appropriate for FPL to depreciate the nuclear uprate costs over four years?

- ISSUE 31.** Is it appropriate for FPL to depreciate the existing meter investment that will be replaced by AMI meters over four years?

- ISSUE 32.** What is the appropriate service life for the WCEC 1, 2, 3 and other combined cycle generating facilities?

### **INCOME TAXES**

- ISSUE 33.** Should the tax benefits resulting from the American Recovery and Reinvestment Act of 2009 ("Stimulus Bill") be reflected in FPL's revenue requirement?

- ISSUE 34.** Should the \$20 million subsidy available pursuant to the Stimulus Bill for advanced meters and smart grid investment be reflected in the FPL's revenue requirement?

**ISSUE 35.** Should FPL be required to record other tax benefits resulting from the Stimulus Bill as a regulatory liability?

**RATE BASE**

**ISSUE 36.** Is it appropriate for FPL to include planned capital expenditures that have been subsequently cut in its plant in service for the test year?

**ISSUE 37.** Should FPL's estimated plant in service be reduced to reflect the capital budget cuts actually implemented in 2009 and that will carryover into 2010?

**COST OF CAPITAL**

**ISSUE 38.** What is the appropriate cost of common equity to use in establishing FPL's revenue requirement for the projected test year?

**ISSUE 39.** What is the financial health and overall risk of FPL?

**ISSUE 40.** What is the appropriate comparison group for calculating FPL's ROE?

**ISSUE 41.** Is it appropriate to estimate FPL's ROE with a non-utility comparison group?

**ISSUE 42.** What is the appropriate methodology for calculating FPL's ROE?

**ISSUE 43.** What are the appropriate inputs for calculating FPL's ROE using the DCF methodology?

**ISSUE 44.** Is it appropriate to calculate the DCF model without using forecasted dividend growth rates?

**ISSUE 45.** Is it appropriate to use non DCF return on equity methodologies?

**ISSUE 46.** In setting FPL's ROE for use in establishing FPL's revenue requirements and authorized range, should the Commission make an adjustment to reflect FPL's "exemplary management"?

**ISSUE 47.** Should FPL's ROE be adjusted for flotation costs?

**ISSUE 48.** Is it appropriate to calculate FPL's flotation costs based on a study of other companies?

**ISSUE 49.** Should FPL's ROE be adjusted according to the current state of the market?

**CAPITAL STRUCTURE AND COST OF DEBT**

**ISSUE 50.** What is the appropriate capital structure for FPL?

- ISSUE 51.** What is the appropriate amount of Common Equity to include in the capital structure?
- ISSUE 52.** Should FPL's equity level be reduced to conform to the high end of S&P's debt-to-total capital range consistent with an A credit profile?
- ISSUE 53.** What is the appropriate amount of short term debt to include in the capital structure?
- ISSUE 54.** Should the total amount of short term debt in FPL's capital structure be increased to be consistent with its short-term debt levels over the last few years?
- ISSUE 55.** What is the appropriate cost rate for short-term debt for the projected test year?
- ISSUE 56.** Is it appropriate for FPL to hold a large amount of common equity and inflate its equity ratio in order to compensate for FPL Group's higher debt leverage, which funds non-regulated businesses?
- ISSUE 57.** Is it appropriate for FPL to reduce the ADIT included in its proposed capital structure by \$168.598M for the effects of FIN 48?
- ISSUE 58.** Should FPL be required to directly assign to rate payers the low cost capital provided by customer deposits and the cost-free capital provided by ADIT?
- ISSUE 59.** Should any adjustments to FPL's proposed depreciation expense and accumulated depreciation be reflected in FPL's ADIT included in its capital structure?

#### **COST CLASSIFICATION**

- ISSUE 60.** Is it appropriate for FPL to classify all distribution costs (except meters and services) as demand related, thereby, ignoring any customer related cost responsibility?
- ISSUE 61.** Is it appropriate to classify all distribution costs (except meters and services) as demand related when FPL has significantly relied on its parity study to assign increases to rate schedules?
- ISSUE 62.** Should some portion of the distribution costs (other than services, meters and "primary pull offs") be classified as customer related?
- ISSUE 63.** Should the component of distribution plant cost that is incurred by a utility to effectively interconnect a customer to the system be classified as customer related?
- ISSUE 64.** Does a demand related classification of distribution costs overstate the cost responsibility of large general rate schedules?

**ISSUE 65.** Should FPL employ the “zero intercept” or the “minimum size” methodologies to classify distribution plant costs that are customer related?

**ISSUE 66.** Should FPL employ a minimum distribution cost methodology to classify distribution costs?

**ISSUE 67.** Is it appropriate to use a minimum distribution system for FPL when a minimal amount of facilities are needed to interconnect customers and be in compliance with the National Electric Safety Code?

**ISSUE 68.** Is it appropriate to use a minimum distribution system for FPL when the number of minimal usage customers has increased due to the housing crisis and the number of vacated homes?

### **COST ALLOCATION**

**ISSUE 69.** Is the 12 CP and 1/13th average demand methodology an appropriate methodology for allocating costs to customers?

**ISSUE 70.** Does the 12 CP and 1/13th average demand methodology provide correct and adequate price signals to customers?

**ISSUE 71.** Does FPL plan capacity additions to meet minimum reserve requirements during the summer peak?

**ISSUE 72.** Are the summer month reserve margin requirements the binding constraint for planning FPL's system?

**ISSUE 73.** Would it be more appropriate for FPL to use a summer coincident peak methodology for allocating costs?

### **PARITY STUDY**

**ISSUE 74.** Are FPL's cost of service forecasts for 2010 and 2011 reasonable for use in FPL's rate of return parity study?

**ISSUE 75.** Should FPL use SFHHA's proposed cost allocation and classification methodologies when calculating the class parity study?

### **GRADUALISM - ALLOCATION OF THE AUTHORIZED REVENUE INCREASE**

**ISSUE 76.** Should the results of FPL's approved cost of service study be mitigated through the use of gradualism?

**ISSUE 77.** Should FPL be required to limit increases to rates such that no rate schedule receives an increase more than 1.5 times the average percentage increase in base rates and no rate schedule receives a rate decrease in base rates?

**ISSUE 78.** Should FPL have used gradualism when it constructed its rates given the large increase in its revenue requirement and the general economic environment that all of the FPL's customers are facing?

Dated this 28th day of July, 2009.

/s/Kenneth L. Wiseman

Kenneth L. Wiseman

Mark F. Sundback

Andrews Kurth LLP

1350 I Street NW

Suite 1100

Washington, D.C. 20005

Ph. (202) 662-2700

Fax. (202) 662-2739

Attorneys for the South Florida Hospital and Healthcare Association

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 080677-EI**

I HEREBY CERTIFY that a true and correct copy of **SFHHA'S PRELIMINARY ISSUES LIST, PENDING COMPLETION OF DISCOVERY** has been furnished by electronic mail and U.S. mail on this 28th day of July, 2009 to the following:

Robert A. Sugarman  
I.B.E.W. System Council U-4  
c/o Sugarman Law Firm  
100 Miracle Mile, Suite 300  
Coral Gables, FL 33134

Jean Hartman  
Lisa Bennett  
Martha Brown  
Anna Williams  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Jack Leon, Natalie Smith  
Senior Attorney  
Florida Power & Light Company  
9250 W. Flagler Street, Suite 6514  
Miami, Florida 33174

John T. Butler  
Florida Power & Light Company  
700 Universe Boulevard  
Juno Beach, FL 33408-0420

Robert Scheffel Wright  
John T. LaVia  
c/o Florida Retail Federation  
225 South Adams Street, Suite 200  
Tallahassee, FL 32301

Jon C. Moyle, Jr  
Vicki Gordon Kaufman  
Keefe Anchors Gordon & Moyle  
118 North Gadsden Street  
Tallahassee, FL 32301

J.R. Kelly  
Office of Public Counsel  
c/o The Florida Legislature  
111 W. Madison Street, Room 812  
Tallahassee, FL 32399-1400

Thomas Saporito  
Saporito Energy Consultants  
Post Office Box 8413  
Jupiter, FL 33468-8413

Brian P. Armstrong  
Nabors, Giblin & Nickerson, PA  
1500 Mahan Drive, Suite 200  
Tallahassee, FL 32308

Credit Suisse  
Yang Song, Equity Research  
Email: yang.y.song@credit-suisse.com

Mr. Wade Litchfield  
Florida Power & Light Company  
215 South Monroe Street, Suite 810  
Tallahassee, FL 32301-1859

Cecilia Bradley  
Office of the Attorney General  
The Capitol – PL01  
Tallahassee, FL 32399-1050

John W. McWhirter, Jr  
c/o McWhirter Law Firm  
PO Box 3350  
Tampa, FL 33601

/s/ Kenneth L. Wiseman  
Kenneth L. Wiseman, Esq.