

8/7/2009 10:08 AM

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080677-ET

From: Cecilia Bradley [Cecilia.Bradley@myfloridalegal.com]
Sent: Thursday, August 06, 2009 5:07 PM
To: Filings@psc.state.fl.us
Subject: Attorney General McCollum's Prehearing Statement in DOcket No. 080677

Attachments: AG's Prehearing Statement.doc



AG's Prehearing
statement.doc ..

Attached is the Attorney General's Prehearing Statement for filing in Docket No. 080677.
Thank you for consideration of this matter.

(See attached file: AG's Prehearing Statement.doc)

Please note that Florida has a broad public records law, and that all correspondence to me
via email may be subject to disclosure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO.: 080677-EI
FILED: August 6 2009

In re: 2009 depreciation study by Florida
Power & Light Company.

DOCKET No. 090130-EI
FILED: August 6, 2009

ATTORNEY GENERAL'S PREHEARING STATEMENT

The Citizens of the State of Florida, through Attorney General Bill McCollum, and pursuant to the Order Establishing Procedure in this docket, Order No. PSC-09-0159-PCO-EI, issued March 20, 2009, and Order No. PSC -09-0521-PCO-EI, issued July 27, 2009, hereby submit this Prehearing Statement.

APPEARANCES:

Cecilia Bradley
Senior Assistant Attorney General
Office of the Attorney General
The Capitol – PL01
Tallahassee, FL 32399-
On behalf of the Attorney General for the Citizens of Florida

1. WITNESSES:

We will call no witnesses but reserve the right to cross examine the witnesses of all other parties.

2. EXHIBITS:

We have no exhibits but reserve the right to use the exhibits of other parties and those introduced at the public service hearings for impeachment purposes.

3. STATEMENT OF BASIC POSITION

Florida Statute mandates that the Public Service Commission establish fair and reasonable rates for all Florida citizens. Hundreds of these citizens testified under oath at the service hearings that they cannot afford a rate increase. Some spoke of having to move out of state to live with family and others spoke of moving to another state where the rates are affordable.

DOCUMENT NUMBER-DATE

08159 AUG-7 8

FPSC-COMMISSION CLERK

A mother in testimony testified that she had gone back to school so that she could provide a better

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AG: No. Adjustments need to be made.

2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD

ISSUE 4: Does the Commission have the legal authority to approve a subsequent year base rate adjustment using a 2011 projected test year?
Whether the FPSC has jurisdiction under Florida law at Sections 366.06(1) and 367.08(2) to consider FPL's petition for a rate increase based on FPL's projected 2011 test-year period of the 12-months starting January 1, 2011 and ending December 31, 2011 supported by future speculative projections of costs and investments used and useful in the public service? (Saporito's proposed issue)

AG: Support OPC's position.

ISSUE 5: Should the Commission approve in this docket FPL's request to adjust base rates in January 2011?

AG: No.

ISSUE 6: Is FPL's projected subsequent year test period of the 12 months beginning January 1, 2011 and ending December 31, 2011, appropriate?

AG: No. Support OPC's position.

ISSUE 7: Are FPL's forecasts of customers, kWh, and kW by rate classes for the 2011 projected test year appropriate?

AG: No. Adjustments should be made.

GENERATION BASE RATE ADJUSTMENT

ISSUE 8: Should the Commission approve a Generation Base Rate Adjustment (GBRA) which would authorize FPL to increase base rates for revenue requirements associated with new generating addition approved under the Power Plant Siting Act, at the time they enter commercial service?

AG: No. Support OPC's position and regulatory oversight of these issues.

ISSUE 9: If the Commission approves a GBRA for FPL, how should the cost of qualifying generating plant additions be determined?

AG: No. The cost of plant additions should not be based on estimated costs which are done years in advance and are speculative at best.

ISSUE 11: If the Commission approves a GBRA for FPL, how should the GBRA be designed?

AG: Adopt OPC position.

ISSUE 12: If the Commission approves a GBRA for FPL, should the maximum amount of the base rate adjustment associated with a qualifying generating facility be limited by a consideration of the impact of the new generating facility on FPL's earned rate of return ("earnings test")? If so, what are the appropriate financial parameters of the test, and how should the earnings test be applied?

AG: Adopt OPC position.

ISSUE 13: If the Commission determines it appropriate to adopt the use of a GBRA mechanism, how should FPL be required to implement the GBRA?

AG: Adopt OPC position.

ISSUE 14: If the Commission chooses not to approve the continuation of the GBRA mechanisms, but approves the use of the subsequent year adjustment, what is the appropriate adjustment to FPL's rate request to incorporate the revenue requirements reflected in the West County Unit 3 MFR Schedules?

AG : Adopt OPC position

JURISDICTIONAL SEPARATION

ISSUE 15: Does FPL's methodology of including its transmission-related investment, costs, and revenues of its non-jurisdictional customers when calculating retail revenue requirements properly and fairly identify the retail customers appropriate revenue responsibility for transmission investment? If no, then what adjustments are necessary?

AG: No. Support OPC position.

ISSUE 16: What is the appropriate jurisdictional separation of costs and revenues between the wholesale and retail jurisdictions?

AG: Adopt OPC position

QUALITY OF SERVICE

ISSUE 17: Is the quality and reliability of electric service provided by FPL adequate?

AG: The testimony at the service hearings indicates that service varies in different parts of their territory. The service is very reliable in some areas and customers from other areas testified about problems with continuing service interruptions and ongoing problems with tree-trimming issues.

DEPRECIATION STUDY

ISSUE 18: Should the current-approved depreciation rates, capital recovery schedules, and amortization schedules be revised?

AG: Yes. Support OPC position.

ISSUE 19: What are the appropriate depreciation rates, capital recovery schedules, and amortization schedules?

AG: Adopt OPC position.

ISSUE 20: *INTENTIONALLY BLANK*

ISSUE 21: *Is FPL's proposed accelerated capital recovery appropriate? FIPUG*

AG: No. Support OPC position. 34.

ISSUE 22: *What life spans should be used for FPL's coal plants? FIPUG*

AG: 60 years.

ISSUE 23: *What life spans should be used for FPL's combined cycle plants? FIPUG*

AG: 35 years. .

ISSUE 24: *What are the appropriate depreciation rates? City SD*

AG: See response to Issue 19, above.

ISSUE 25: *Has FPL applied appropriate life spans to categories of production plant when developing its proposed depreciation rates? (Note: To date, the parties have identified the following categories of production plant as sub issues)*

Coal-fired production units
Large steam oil or gas-fired generating facilities
Combined cycle generating facilities OPC

AG: No. Support OPC position.

ISSUE 26: *Has FPL applied the appropriate methodology to calculate the remaining life of production units? OPC*

AG: No. Support OPC position

ISSUE 27: *Has FPL appropriately quantified the level of interim retirements associated with production units? If not, what is the appropriate level, and what is the related impact on depreciation expense for generating facilities? OPC*

AG: No. Support OPC position

ISSUE 28: *Has FPL incorporated the appropriate level of net salvage associated with the interim retirements that are estimated to transpire prior to the final termination of a generating station or unit? If not, what is the appropriate level? OPC*

AG: No. Support OPC position

ISSUE 29: *Has FPL quantified the appropriate level of terminal net salvage in its request for dismantlement costs? If not, what is the appropriate level? OPC*

AG: No. Support OPC position.

ISSUE 30: *Has FPL applied appropriate life characteristics (curve and life) to each mass property account (transmission, distribution, and general plant) when developing its proposed depreciation rates?(Note: To date, the parties have identified the following accounts as sub issues)*

AG: No. Support OPC position

ISSUE 31: *Has FPL applied appropriate net salvage levels to each mass property (transmission, distribution, and general plant) account when developing its proposed depreciation rates?*

AG: No. Support OPC position.

ISSUE 32: *What are the appropriate depreciation rates for FPL, and what amount of annual depreciation expense should the Commission include in Docket 080677-EI for ratemaking purposes? OPC*

AG: Adopt OPC position.

ISSUE 33: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FPL's data, *and a comparison of the theoretical reserves to the book reserves*, what are FPL's *theoretical* reserve imbalances?

AG: Adopt OPC position.

ISSUE 34: What, if any, corrective reserve measures should be taken with respect to the theoretical reserve imbalances identified in the prior issue?

AG: The Majority of FPL's enormous depreciation reserve excess should be returned to FPL customers who contributed to this excess. Remainder should be used to decrease rates. .

ISSUE 35: *What steps should the Commission take to restore generational equity? FIPUG*

AG: See Issue 34, above.

ISSUE 36: *What considerations and criteria should the Commission take into account when evaluating the time frame over which it should require FPL to amortize the depreciation reserve imbalances that it determines in this proceeding? OPC*

AG: The excess depreciation reserves has been at the expense of FPL's customers so it should be done in a manner that provides the greatest benefit to these customers at this time of greatest need..

ISSUE 37: *What would be the impact, if any, of the parties' respective proposals with respect to the treatment of the depreciation reserve imbalances on FPL's financial integrity? OPC*

AG: It should not affect FPL's financial integrity.

ISSUE 38: *What is the appropriate disposition of FPL's depreciation reserve imbalances? OPC*

AG: See Issue 34. AG would agree that this is duplicative.

ISSUE 39: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

AG: January 1, 2010.

FOSSIL DISMANTLEMENT COST STUDY

ISSUE 40: Should the current-approved annual dismantlement provision be revised?

AG: See Issue 29.

ISSUE 41: What, if any, corrective reserve measures should be approved?

AG: See Issue 29.

ISSUE 42: What is the appropriate annual provision for dismantlement?

AG: See Issue 29.

ISSUE 43: Does FPL employ reasonable depreciation parameters and costs when it assumes that it must restore all generation sites to “greenfield” status upon their retirement?

AG: See Issue 29

ISSUE 44: In future dismantlement studies filed with the Commission, should FPL consider alternative demolition approaches? *May be stipulated.*

AG: Yes

RATE BASE

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL’s request for a subsequent year adjustment.)

ISSUE 45: Has the Company removed all non-utility activities from rate base?

AG: Concur with OPC

ISSUE 46: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses be included in the calculation of working capital allowance for FPL?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: Consistent with Commission practice, clause overrecoveries are included (as a reduction) and underrecoveries are excluded from working capital. .

ISSUE 47: Are the costs associated with Advanced Metering Infrastructure (AMI) meters appropriately included in rate base?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 48: *Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate? (My notes reflect this issue and issue 59 were the same and moved to Other Issues section) *City SD*

AG: No position pending further development of the record.

ISSUE 49: *Should FPL's estimated plant in service be reduced to reflect the actual capital expenditures implemented in 2009 on an annualized basis carried forward into the projected test Year(s) and for reductions of a similar magnitude?*
A. *For the 2010 projected test year?*
B. *If applicable, for the 2011 subsequent projected test year? SFHHA*

AG: No position pending further development of the record.

ISSUE 50: Are FPL's requested levels of Plant in Service appropriate?
A. For the 2010 projected test year in the amount of \$28,288,080,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$29,599,965,000?
Whether FPL's petition for a rate increase is prudent and necessary to make investments used and useful in the public service? (Saporito's version of issue)

AG: No. Reductions are appropriate.

ISSUE 51: Are FPL's requested levels of accumulated depreciation appropriate?
A. For the 2010 projected test year in the amount of \$12,590,521,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$13,306,984,000?

AG: Support OPC position.

ISSUE 52: Is FPL's proposed adjustment to CWIP for the Florida EnergySecure Line (gas pipeline) appropriate?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 53: Has FPL removed any Environmental Cost Recovery Clause (ECRC) capital cost recovery items from the ECRC and placed them into rate base?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 54: Should FPL be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. for nuclear construction and FPL's most currently approved AFUDC for recovery when the nuclear plants enter commercial operation? *This issue will be decided in a different docket.*

AG: We agree that this should be decided in a separate docket.

ISSUE 55: Are FPL's requested levels of Construction Work in Progress (CWIP) appropriate?
A. For the 2010 projected test year in the amount of \$707,530,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$772,484,000?

AG: No.

ISSUE 56: Are FPL's requested levels of Property Held for Future Use appropriate?
A. For the 2010 projected test year in the amount of \$74,502,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$71,452,000?

AG: No. Support OPC position

ISSUE 57: Should any adjustments be made to FPL's fuel inventories? *(may be removed pending staff review of discovery)*

AG: No position pending further development of the record.

ISSUE 58: Is FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel appropriate?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position at this time

ISSUE 59: Should nuclear fuel be capitalized and included in rate base due to the dissolution of FPL Fuels, Inc.?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 60: Are FPL's requested levels of Nuclear Fuel appropriate?

- A. For the 2010 projected test year in the amount of \$374,733,000?
- B. If applicable, for the 2011 subsequent projected test year in the amount of \$408,125,000?

AG: No position at this time.

ISSUE 61: Should the unamortized balance of the FPL Glades Power Park (FGPP) be included in rate base?

AG: No position pending further development of the record.

ISSUE 62: Are FPL's requested levels of Working Capital appropriate?
A. For the 2010 projected test year in the amount of \$209,262,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$335,360,000?

AG: No. Adjustments are necessary.

ISSUE 63: Is FPL's requested rate base appropriate?
A. For the 2010 projected test year in the amount of \$17,063,586,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$17,880,402,000?

AG: No. Support OPC position

COST OF CAPITAL

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 64: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC position

ISSUE 65: *Should FPL be required to use the entire amount of customer deposits and ADIT related to utility rate base in its capital structure? SFHHA*

AG: See AG's position on Issue 69.

ISSUE 66: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC position

ISSUE 67: What is the appropriate cost rate for short-term debt?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC position

ISSUE 68: What is the appropriate cost rate for long-term debt?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC position

ISSUE 69: Have rate base and capital structure been reconciled appropriately?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG No

ISSUE 70: Has FPL appropriately described the actual 59% equity ratio that it proposes to use for ratemaking purposes as an “adjusted 55.8% equity ratio” on the basis of imputed debt associated with FPL’s purchased power contracts?

AG No

ISSUE 71: What is the appropriate equity ratio that should be used for FPL for ratemaking purposes in this case?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG Adopt OPC position

ISSUE 72: *Do FPL’s power purchase contracts justify or warrant any changes to FPL’s capital structure in the form of imputed debt or equity for ratemaking purposes?*
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? (*FIPUG and FRF*)

AG See Issue 71

ISSUE 73: What is the appropriate capital structure for FPL for the purpose of setting rates in this docket?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG See Issue 81

ISSUE 74: *Has the fuel adjustment clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

AG: See Issue 80.

ISSUE 75: *Has the nuclear cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

AG: See Issue 80.

ISSUE 76: *Has the conservation cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

AG: See Issue 80.

ISSUE 77: *Has the environmental cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

AG: See Issue 80.

ISSUE 78: *Has the Generation Base Rate Adjustment reduced FPL's cost of equity and, if so, by how many basis points? City of SD*

AG: See Issue 80.

ISSUE 79: *Is it appropriate to adjust the equity cost rate for flotation costs? OPC*

AG:

ISSUE 80: What return on common equity should the Commission authorize in this case?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC position

ISSUE 81: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG Adopt OPC position

NET OPERATING INCOME

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 82: What are the appropriate inflation, customer growth, *and other trend factors* for use in forecasting?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 83: Should FPL's proposal to transfer capacity charges and capacity-related revenue associated with the St. John's River Power Park from base rates to the Capacity Cost Recovery Clause be approved?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No.

ISSUE 84: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 85: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 86: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 87: Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 88: Should an adjustment be made to operating revenue to reflect the incorrect forecasting of FPL's C/I Demand Reduction Rider Incentive Credits and Offsets?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending further development of the record.

ISSUE 89: Is an adjustment appropriate to FPL's Late Payment Fee Revenues if the minimum Late Payment Charge is approved in Issue 145?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Such charges should not be allowed as discussed in Issue 145. However, if such charges are increased then customers should get the benefit as specified by OPC.

ISSUE 90: Are any adjustments necessary to FPL's Revenue Forecast?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC position.

ISSUE 91: Are FPL's projected levels of Total Operating Revenues appropriate?
A. For the 2010 projected test year in the amount of \$4,114,727,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$4,175,024,000?

AG: No. Revenues should be increased.

ISSUE 92: Has FPL made the appropriate adjustments to remove charitable contributions?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

AG: No position pending evidence adduced at hearing.

ISSUE 93: Should an adjustment be made to remove FPL's contributions recorded above the line for the historical museum?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC position

ISSUE 94: Should an adjustment be made for FPL's Aviation cost for the test year?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

AG: No position pending evidence adduced at hearing.

ISSUE 95: Are any adjustments necessary to reflect the cost savings associated with AMI meters ~~appropriately included~~ in net operating income? *OPC Suggested rewording.*

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC position

ISSUE 96: What is the appropriate level of Bad Debt Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC position

ISSUE 97: Should an adjustment be made to remove the portion of Bad Debt Expense associated with clause revenue that is currently being recovered in base rates and include them as recoverable expenses in the respective recovery clauses?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: No, bad debt expense should continue to be recovered through base rates.

ISSUE 98: Should an adjustment be made to advertising expenses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

AG: No position pending evidence adduced at hearing.

ISSUE 99: Has FPL made the appropriate adjustments to remove lobbying expenses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

AG: No position pending evidence adduced at hearing.

ISSUE 100: Are any adjustments necessary to FPL's payroll to reflect the historical average level of unfilled positions and jurisdictional overtime?

AG: No position at this time

ISSUE 101: Should FPL reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs?

AG: No position pending evidence adduced at hearing.

ISSUE 102: Is it appropriate for FPL to increase its forecasted Operating and Maintenance Expenses due to estimated needs for nuclear production staffing?

AG: No Support OPC position

ISSUE 103: Should an adjustment be made to FPL's requested level of Salaries and Employee Benefits?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: See Issues 100-102, 104 and 105.

ISSUE 104: *Should an adjustment be made to FPL's level of executive compensation?*
A. *For the 2010 projected test year?*
B. *If applicable, for the 2011 subsequent projected test year? (OPC)*

AG: Yes. Jurisdictional salaries should be decreased by \$27.509 million in 2010 and \$29.400 million in 2011 to remove the portion of executive compensation that is designed to benefit shareholders and the portion that exceeds target compensation levels.

ISSUE 105: *Should an adjustment be made to FPL's level of non-executive compensation?*
A. *For the 2010 projected test year?*
B. *If applicable, for the 2011 subsequent projected test year? (OPC)*

AG: Yes. Jurisdictional salaries should be decreased by \$5.661 million in 2010 and \$6.640 million in 2011 to remove the portion of non-executive compensation that is designed to benefit shareholders and the portion that exceeds target compensation levels.

ISSUE 106: Should an adjustment be made to Pension Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

AG: No position pending evidence adduced at hearing.

ISSUE 107: Is a test year adjustment necessary to reflect FPL's receipt of an environmental insurance refund in 2008?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Test year expenses should be reduced by \$8.686 million in both 2010 and 2011, reflecting a 5-year amortization of the environmental insurance refund. The unamortized balance should be treated as a regulatory liability and included as an offset to rate base in the amount of \$39.086 million in 2010 and \$30.400 million in 2011. (Brown)

ISSUE 108: Is a test year adjustment appropriate to reflect the expected settlement received from the Department of Energy?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC position

ISSUE 109: Should adjustments be made for the net operating income effects of transactions with affiliated companies for FPL?

AG: Yes. Support OPC Position

ISSUE 110: *Is an adjustment appropriate to the allocation factor for FPL Group's executive costs? OPC*

AG: Yes. Support OPC position

ISSUE 111: *Are any adjustments necessary to FPL's Affiliate Management Fee Cost Driver allocation factors? OPC*

AG: Yes. Support OPC position

ISSUE 112: *Are any adjustments necessary to FPL's Affiliate Management Fee Massachusetts Formula allocation factors? OPC*

AG: Yes. Support OPC position

ISSUE 113: *Are any adjustments necessary to the costs charged to FPL by FiberNet? OPC*

AG: Yes. The Commission should reduce the return on investment used in the determination of charges to FPL from FPL FiberNet to the return allowed for FPL.

ISSUE 114: *Should an adjustment be made to allow ratepayers to receive the benefit of FPLES margins on gas sales as a result of the sale of FPL's gas contracts to FPLES? OPC*

AG: Yes.

ISSUE 115: *Is an adjustment appropriate to recognize compensation for the services that FPL provides to FLPES for billing on FPL's electric bills? OPC*

AG: Yes to extent indicated by OPC position..

ISSUE 116: *Is an adjustment appropriate to recognize compensation for the services that FPL provides to FLPES to the extent that FPL service representatives provide referrals or perform similar functions for FPLES? OPC*

AG: Yes. Support OPS position.

(Issue left off of staff compiled list of issues)

ISSUE 116a: *Is an adjustment necessary to reflect the gains on sale of utility assets sold to FPL's non-regulated affiliates? (This was OPC's Issue 58 on our preliminary list of issues and was not included in staff's original compilation.)*

AG: Yes. Support OPC position

ISSUE 117: *Is an adjustment appropriate to increase power monitoring revenue for services provided by FPL to allow customers to monitor their power and voltage conditions? OPC*

AG: Yes. Support OPC position.

ISSUE 118: *What is the total operating income impact of affiliate adjustments, if any, that is necessary for the 2010 test year? OPC*

AG: Adopt OPC position

ISSUE 119: *Should the Commission order notification requirements to report the future transfer of the FPL-NED assets from FPL to a separate company under FPL Group Capital?*

AG: Yes. Support OPC position

ISSUE 120: *Should an adjustment be made to FPL's requested storm damage reserve, annual accrual of \$150 million, and target level of \$650 million?*
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC position.

ISSUE 121: What adjustment, if any, should be made to the fossil dismantlement accrual?

OPC: See Issue 29.

ISSUE 122: What is the appropriate amount and amortization period of Rate Case Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position pending evidence adduced at hearing.

ISSUE 123: Should an adjustment continue to be made to Administrative and General Expenses to eliminate "Atrium Expenses" per Order No. 10306, Docket No. 810002-EU?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. .

ISSUE 124: Should FPL's request to move payroll loading associated with the Economic Cost Recovery Clause (ECRC) payroll currently recovered in base rates to the ECRC be approved?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. These costs are appropriately recovered in base rates and citizens do not need any additional costs being passed through to them without an appropriate hearing.

ISSUE 125: Should an adjustment be made to remove payroll loadings on incremental security costs that are currently included in base rates and include them in the Capacity Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. These costs are appropriately recovered in base rates. See 124

ISSUE 126: Should an adjustment be made to move the incremental hedging costs that are currently being recovered through the Fuel Cost Recovery Clause to base rates?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. We support the position of OPC.

ISSUE 127: Should the Commission adjustment in FPL's 1985 base rate case, Docket No. 830465-EI, for imputed revenues associated with orange groves be reversed?
A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. The adjustment is no longer necessary as FPL leases the property and has included the lease revenue in operating revenues.

ISSUE 128: Is FPL's requested level of O&M Expense appropriate?

A. For the 2010 projected test year in the amount of \$1,694,367,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of \$1,781,961,000?

OPC:

ISSUE 129: Should FPL be permitted to collect depreciation expense for its new Customer Information System prior to its implementation date?

AG Adopt OPC:

ISSUE 130: Should FPL's depreciation expenses be reduced for the effects of its capital expenditure reductions?

AG Adopt OPC:

ISSUE 131: Should any adjustment be made to Depreciation Expense?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG Adopt OPC:

ISSUE 132: Should an adjustment be made to Taxes Other Than Income Taxes for the 2010 and 2011 projected test years?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG Adopt OPC

ISSUE 133: Should an adjustment be made to reflect any test year revenue requirement impacts of "The American Recovery and Reinvestment Act" signed into law by the President on February 17, 2009?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: Yes.

ISSUE 134: Should an adjustment be made to Income Tax expense?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG Adopt OPC:

- ISSUE 135:** Is FPL's projected Net Operating Income appropriate?
- A. For the 2010 projected test year in the amount of \$725,883,000?
 - B. If applicable, for the 2011 subsequent projected test year in the amount of \$662,776,000?

AG Adopt OPC

REVENUE REQUIREMENTS

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

- ISSUE 136:** What are the appropriate revenue expansion factors and the appropriate net operating income multipliers, including the appropriate elements and rates, for FPL?
- A. For the 2010 projected test year?
 - B. If applicable, for the 2011 subsequent projected test year?

AG "'''''''' Adopt OPC

- ISSUE 137:** Is FPL's requested annual operating revenue increase appropriate?
- A. For the 2010 projected test year in the amount of \$1,043,535,000?
 - B. If applicable, for the 2011 subsequent projected test year in the amount of \$247,367,000?

AG Adopt

ISSUE 138: *Whether FPL's rates should be decreased by \$1.3 billion dollars? Saporito*

OPC: See Issue 137.

COST OF SERVICE AND RATE DESIGN ISSUES

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

- ISSUE 139:** Has FPL correctly calculated revenues at current rates for the 2010 and 2011 projected test year?
- A. For the 2010 projected test year?
 - B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

- ISSUE 140:** Should FPL use a minimum distribution cost methodology (utilizing either a "zero intercept" or a "minimum size" approach) to allocate distribution plant costs to rate classes?

AG: No position.

ISSUE 141: What is the appropriate Cost of Service Methodology to be used to allocate base rate and cost recovery costs to the rate classes?

AG: No position.

ISSUE 142: How should the change in revenue requirement be allocated among the customer classes?

AG: No position.

ISSUE 143: Has FPL properly adjusted revenues to account for unbilled revenues?

AG: No position.

ISSUE 144: Are FPL's proposed service charges for initial connect, field collection, reconnect for non-payment, existing connect, and returned payment charges appropriate?

AG: No. This just increases the burden on customers who are already struggling to pay their bills timely. These rates should be reduced.

ISSUE 145: Is FPL's proposal to increase the minimum late payment charge to \$10 appropriate?

AG: No. Customers are struggling to pay their bills and adding more to their burden is counterproductive..

ISSUE 146: Are FPL's proposed Temporary Service Charges appropriate? (4.030)

AG: No position.

ISSUE 147: Is FPL's proposed increase in the charges to obtain a Building Efficiency Rating System (BERS) rating appropriate? (4.041)

AG: No position.

ISSUE 148: Are FPL's proposed termination factors to be applied to the total installed cost of facilities when customers terminate their Premium Lighting or Recreational Lighting agreement prior to the expiration of the contract term appropriate? (8.722 and 8.745)

AG: No position.

ISSUE 149: Are FPL's proposed charges under the Street Lighting Vandalism Option notification appropriate? (8.717)

AG: No position.

ISSUE 150: Is FPL's proposed Present Value Revenue Requirement multiplier to be applied to the installed cost of premium lighting facilities under rate Schedule Premium Lighting (PL-1) and the installed cost of recreational lighting facilities under the rate Schedule Recreational Lighting (RL-1) to determine the lump sum advance payment amount for such facilities appropriate? (8.720 and 8.743)

AG: No position.

ISSUE 151: Is FPL's proposal to close the Wireless Internet Rate (WIES) schedule to new customers appropriate?

AG: No position.

ISSUE 152: Should FPL's proposal to close the relamping option on the Street Lighting (SL-1) and Outdoor Lighting (OL-1) tariffs for new street light installations be approved? (8.716 and 8.725)

AG: No position.

ISSUE 153: Should FPL's proposal to remove the 10 year and 20 year payment options from the PL-1 and RL-1 tariff be approved? (8.720 and 8.743)

AG: No position.

ISSUE 154: Is FPL's proposed monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider appropriate? (8.820)

AG: No position.

ISSUE 155: Is FPL's proposed monthly fixed charge carrying rate to be applied to the installed cost of customer-requested distribution equipment for which there are no tariffed charges appropriate? (10.010)

AG: No position.

ISSUE 156: Is FPL's proposed Monthly Rental Factor to be applied to the in-place value of customer-rented distribution substations to determine the monthly rental fee for such facilities appropriate? (10.015)

AG: No position.

ISSUE 157: Are FPL's proposed termination factors to be applied to the in-place value of customer-rented distribution substations to calculate the termination fee appropriate? (10.015)

ISSUE 158: Is FPL's proposed minimum charge for non-metered service under the GS rate appropriate?

AG: No position.

ISSUE 159: What are the appropriate customer charges?

AG: No position.

ISSUE 160: What are the appropriate demand charges?

AG: No position.

ISSUE 161: What are the appropriate energy charges?

AG: No position.

ISSUE 162: What are the appropriate lighting rate charges?

AG: No position.

ISSUE 163: What is the appropriate level and design of the charges under the Standby and Supplemental Services (SST-1) rate schedule?

AG: No position.

ISSUE 164: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

AG: No position.

ISSUE 165: Is FPL's design of the HLFT rates appropriate?

AG: No position.

ISSUE 166: Is FPL's design of the CILC rate appropriate?

AG: No position.

ISSUE 167: *What should the CDR credit be set at? FIPUG*

AG: No position.

ISSUE 168: What is the appropriate method of designing time of use rates for FPL? (AFFIRM Issue)

AG: No position.

ISSUE 169: *Has FPL carried its burden of proof as to the legality and appropriateness of the proposed commercial time of use rates? AFFIRM*

AG: No position.

ISSUE 170: *Should FPL be directed to develop a prepayment option in lieu of monthly billing for those customers who can benefit from such an alternative? (OPC Issue)*

AG: No position.

ISSUE 171: *What is a fair and reasonable rate for the customers of Florida Power and Light Company?*

AG: Florida Statute mandates that the Public Service Commission establish fair and reasonable rates for all Florida citizens. Hundreds of these citizens testified under oath at the service hearings that they cannot afford a rate increase. Some spoke of having to move out of state to live with family and others spoke of moving to another state where the rates are affordable. There were also small business owners who testified about the impact such an increase would have on their business and their customers. These business owners testified that they had absorbed much of their costs but they would be unable to absorb the cost of the excessive rates which FPL has requested and they would have to pass these costs to their customers. They feared that many of their customers would be unable to afford the increase and it would potentially end their businesses, thus leaving them and their employees out of a job and increasing the current economic problems the state is facing. In the current economic climate the rates which FPL has requested are unreasonable and unfair and should be denied.

ISSUE 172: What is the appropriate effective date for FPL's revised rates and charges

AG: No position.

OTHER ISSUES

ISSUE 173: Should an adjustment be made in base rates to include FPL's nuclear uprates being placed into service during the projected test years if any portion of prudently incurred NCRC recovery is denied?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 174: *Should FPL be required to reduce base rates on January 1, 2014, to recognize the change in the separation factor resulting from the increased wholesale load served under the Lee County Contract? (Staff)*

AG: Yes.

ISSUE 175: *Should an adjustment be made to FPL's revenue forecast as a result of the PSC's decision in the DSM Goals Docket, Docket No. 080407-EG? If so, what adjustment should be made? (FPL)*

AG: No, We support the OPC's position.

ISSUE 176: Should FPL be required to 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, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

AG: Yes.

ISSUE 177: Should this docket be closed?

AG: No position.

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CERTIFICATE OF SERVICE
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I HEREBY CERTIFY that a copy of the foregoing Attorney General Bill McCollum's Prehearing Statement has been furnished by electronic mail and U.S. mail to the following parties on this 6th day of August, 2009 to the following:

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