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b. Docket No. 080677-EI  
 In Re: Application for Increase in Rates by Florida Power & Light Company

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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No. 080677-EI

In re: 2009 depreciation and dismantlement )  
study by Florida Power & Light Company )

Docket No. 090130-EI  
FILED: August 11, 2009

**FLORIDA POWER & LIGHT'S BRIEF ON THE  
PROPOSED ISSUES IDENTIFIED IN ORDER NO. PSC-09-0552-PCO-EI**

Pursuant to Order No. PSC-09-0552-PCO-EI, issued on August 6, 2009, Florida Power & Light Company ("FPL") respectfully submits this brief addressing the propriety of including the proposed issues identified in Order No. PSC-09-0552-PCO-EI ("Proposed Issues") in this docket's Prehearing Order. It is FPL's position that except for Issue No. 175, the Proposed Issues should not be included in the Prehearing Order because (1) they are subsumed within other issues to which the parties have already agreed; (2) they are outside the scope of this proceeding; and/or (3) they state positions rather than properly framing issues for determination. It is also FPL's position that Issue No. 175 is an appropriate issue for the Commission's determination and should be included in the Prehearing Order.

**BACKGROUND**

On July 28 and 31, 2009, the Commission Staff ("Staff") conducted meetings with the parties to discuss tentative issues for determination by the Commission in this docket. The parties and Staff reached agreement on over 120 issues for determination, but could not reach a consensus on the Proposed Issues. The parties and Staff agreed that the Proposed Issues should be referred to the Prehearing Officer for determination. On August 6, 2009, the Prehearing Officer issued Order No. PSC-09-0552-PCO-EI, authorizing the parties to submit briefs setting forth the rationale for the inclusion, exclusion, or modification of the Proposed Issues, including

an explanation of why any proposed issue should or should not be subsumed within another issue. FPL hereby submits this brief in response to Order No. PSC-09-0552-PCO-EI.

### **COMMISSION PRECEDENT**

On numerous occasions, the Commission has recognized its authority to limit the nature and scope of proposed issues in a proceeding. The Commission has also established its authority to remove proposed issues on the basis that positions on these issues can be adequately presented within the context of other issues. For example:

- The prehearing officer clarified the scope of the proceeding, removed certain issues from consideration as being outside the scope of the docket, and determined that certain other issues were subsumed within the remaining other issues in the docket. Order No. PSC-99-1274-PCO-EU, issued July 1, 1999, in Docket No. 981890-EU, *In Re: Generic Investigation into the aggregate electric utility reserve margins planned for Peninsular Florida*.
- The Commission found that certain issues proposed by a party “extend beyond the scope of the purpose of the proceeding.” See Order No. PSC-98-0300-PCO-TL, issued February 1998, in Docket No. 970808-TL, *In Re: Petition of BellSouth TeleCommunications, Inc. to remove interLATA access subsidy received by St. Joseph Telephone & Telegraph Company*. In that order, the Commission also found that certain issues were subsumed within other issues.
- The Commission established that a prehearing officer has the authority to deny requests to broaden the scope of an issues list and “is not required to explicate the reasoning on each argument posited by [a party].” Order No. PSC-08-0549-PCO-

TP, issued August 19, 2008, in Consolidated Docket Nos. 070691-TP and 080036-TP.<sup>1</sup>

- The Commission determined an issue would not be included for purposes of a hearing. Order No. PSC-02-1295-PSC-TP, issued September 23, 2002 in Consolidated Docket Nos. 020119-TP and 020578-TP<sup>2</sup>.
- The Commission determined a proposed issue would not be included as an issue in the docket. Order No. PSC-02-1537-PCO-TL, issued November 12, 2002, in Docket No. 020507-TL, *In Re: Complaint of Florida Competitive Carriers Association against BellSouth Telecommunications, Inc. regarding BellSouth's practice of refusing to provide FastAccess Internet Service to customers who receive voice service from a competitive voice provider, and request for expedited relief.*

Consistent with the foregoing decisions, the Commission should exercise its authority to recognize that the Proposed Issues, other than Issue No. 175, should not be included in the Prehearing Order, because they are unnecessary for the conduct of an efficient and complete hearing. The issues to which the parties have agreed, which number over 120, will adequately allow all parties to articulate their respective arguments on all aspects of FPL's rate request.

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<sup>1</sup>*In re: Complaint and request for emergency relief against Verizon Florida, LLC for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Bright House Networks Information Services (Florida), LLC, and its affiliate, Bright House Networks, LLC., In re: Complaint and request for emergency relief against Verizon Florida, L.L.C. for anticompetitive behavior in violation of Sections 364.01(4), 364.3381, and 364.10, F.S., and for failure to facilitate transfer of customers' numbers to Comcast Phone of Florida, L.L.C. d/b/a Comcast Digital Phone.*

<sup>2</sup>*In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs and for investigation of BellSouth's promotional pricing and marketing practices, by Florida Digital Network, Inc., In re: Petition for expedited review and cancellation of BellSouth Telecommunications, Inc.'s Key Customer promotional tariffs by Florida Competitive Carriers Association.*

**FPL'S POSITIONS ON THE PROPOSED ISSUES**

Below, FPL has provided its position in regards to each issue identified in Order No.

PSC-09-0552-PCO-EI.

**2010 PROPOSED TEST PERIOD**

**SAPORITO ISSUE 1:**

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 2010 test-year period of the 12 -months starting January 1, 2010 and ending December 31, 2010 supported by future speculative projections of costs and investments used and useful in the public service? (Saporito)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Staff Issue 1, which asks: "Does the Commission have the legal authority to approve a base rate increase using a 2010 projected test year?" All of the parties' positions can be effectively addressed in responding to Staff Issue 1. Saporito Issue 1 is thus duplicative and would be inappropriate to include in the Prehearing Order. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

**2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD**

**SAPORITO ISSUE 4:**

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)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Staff Issue 4, which asks: "Does the Commission have the legal authority to approve a subsequent test year base rate adjustment using a 2011 projected test year?" All of the parties' positions that address this topic can be stated effectively in responding to Staff Issue 4. Saporito Issue 4 is thus duplicative and would be inappropriate to include in the Prehearing Order. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

## DEPRECIATION STUDY

Issue 19 is a broadly encompassing issue that asks: “What are the appropriate depreciation rates, capital recovery schedules, and amortization schedules?” Issue 19 thus covers the full range of components necessary for a proper determination of depreciation in this proceeding. Therefore, with the exception of Issues 28 and 29 which are addressed separately below, the parties’ positions on all of the Proposed Issues concerning the depreciation study can be stated effectively in responding to Issue 19. Accordingly, FPL agrees with Staff that these issues should not be included in the Prehearing Order.

**ISSUE 21:** Is FPL’s proposed accelerated capital recovery appropriate? (FIPUG)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Issue 42 which asks: "What is the appropriate annual provision for dismantlement?" All of the parties' positions can be stated effectively in responding to Issue 42. Moreover, Issue 28 presupposes the potential outcome that FPL has not 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. Therefore, Issue 28 states a position rather than properly framing an issue for determination by the Commission. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Issue 42 which asks: "What is the appropriate annual provision for dismantlement?" All of the parties' positions can be stated effectively in responding to Issue 42. Moreover, Issue 29 presupposes the potential outcome that FPL has not quantified the appropriate level of terminal net salvage in its request for dismantlement costs. Therefore, Issue 29 states a position rather than properly framing an issue for determination by the Commission. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

**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)

- a. 350.2 Transmission Easements
- b. 353 Transmission Substation Equipment
- c. 353.1 Transmission Substation Equipment Step-Up Transformers
- d. 354 Transmission Towers & Fixtures
- e. 356 Transmission Overhead Conductor
- f. 359 Transmission Roads and Trails
- g. 362 Distribution Substation Equipment
- h. 364 Distribution Poles, Towers & Fixtures (OPC)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

**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? (Note: To date, the parties have identified the following accounts as sub issues)

- a. 353 Transmission Station Equipment
- b. 354 Transmission Tower & Fixtures
- c. 355 Transmission Poles & Fixtures
- d. 356 Transmission Overhead Conductors
- e. 364 Distribution Poles, Towers & Fixtures
- f. 365 Overhead Conductors & Devices
- g. 366.6 Underground Conduit – Duct System
- h. 367.6 Underground Conductor – Duct System
- i. 368 Distribution Line Transformers
- j. 369.1 Distribution Services – Overhead
- k. 369.7 Distribution Services – Underground
- l. 370 Distribution Meters
- m. 370.1 Distribution Meters – AMI
- n. 390 General Structures & Improvements (OPC)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.



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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order. In addition, this issue is prejudicial. It assumes that generational inequity already exists. Thus this is a position, rather than an issue for the Commission's consideration in this case.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 19 and should not be included in the Prehearing Order.

#### **RATE BASE**

**ISSUE 48:** Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate? (City of SD)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Issue 173 which asks: "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?" All of the parties' positions concerning whether an adjustment should be made in base rates to include FPL's nuclear uprates can be stated effectively in responding to Issue 173. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Staff Issue 50 which asks: "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" All of the parties' positions concerning the appropriate level of accumulated depreciation can be stated effectively in responding to Staff Issue 50. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

**SAPORITO ISSUE 50:**

Whether FPL's petition for a rate increase is prudent and necessary to make investments used and useful in the public service? (Saporito)

**POSITION:** FPL agrees with Staff that this issue is the same as and can be subsumed within the wording agreed to by the remaining parties. This issue is extremely difficult to understand as written and the issue is subsumed within numerous other issues.

**COST OF CAPITAL**

Issue 71 is a broadly encompassing issue that asks: "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 test year?" Issue 73 is a broadly encompassing issue that asks: "What is the appropriate capital structure for FPL for the purposes of setting rates in this docket?" Issues 71 and 73 thus cover the full range of components necessary for a proper determination of cost of capital in this proceeding. Therefore, with the exception of Issue 65, which is addressed separately below, the parties' positions on all of the Proposed Issues concerning the cost of capital can be stated effectively in responding to Issues 71 and 73. Accordingly, FPL agrees with Staff that these issues should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Issue 64 which asks: "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" All of the parties' positions concerning the appropriate amount of accumulated deferred taxes to include in the capital structure can be stated effectively in responding to Issue 64.

Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

- 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)

**POSITION:** FPL agrees with Staff that this issue is unnecessary. This issue is addressing the same topic as issue 70 and should not be included in the Prehearing Order. In addition, this issue is prejudicial. It suggests that FPL is requesting changes to its capital structure to reflect the impact of power purchase contracts, whereas FPL is not requesting any such adjustments.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 71 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 71. Moreover, Issues 74 through 78 all address factors that intervenors argue could decrease FPL's cost of equity, but there are no corresponding issues identifying the factors that would increase FPL's cost of equity.

- 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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 71 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 71. See FPL's comment in FPL's position for Issue 74.

- 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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 71 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 71. See FPL's comment in FPL's position for Issue 74.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 71 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 71. See FPL's comment in FPL's position for Issue 74.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 71 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 71. See FPL's comment in FPL's position for Issue 74.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 71 and need not be included in the Prehearing Order.

### **NET OPERATING INCOME**

Issue 109 is a broadly encompassing issue that asks: "What are the appropriate depreciation rates, capital recovery schedules, and amortization schedules?" Issue 109 thus covers the full range of components necessary for a proper determination of net operating income in this proceeding. Therefore, with the exception of Issues 104 and 105, which are addressed separately below, the parties' positions on all of the Proposed Issues concerning the depreciation study can be stated effectively in responding to Issue 109. Accordingly, FPL agrees with Staff that these issues should not be included in the Prehearing Order.

**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)

**POSITION:** The subject of this issue is fully encompassed in Issue 103 which asks: "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" All of the parties' positions concerning FPL's request level of Salaries and Employee Benefits can be stated effectively in responding to Issue 103. Accordingly, FPL believes this issue should not be included in the Prehearing Order.

**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)

**POSITION:** The subject of this issue is fully encompassed in Issue 103, which asks: "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" All of the parties' positions concerning FPL's request level of Salaries and Employee Benefits can be stated effectively in responding to Issue 103. Accordingly, FPL believes this issue should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 109.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 109.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 109.

**ISSUE 116a:** Is an adjustment necessary to reflect the gains on sale of utility assets sold to FPL's non-regulated affiliates? (OPC)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order.

**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)

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order. This is a position, and not an issue, that can be taken by any party in issue 109.

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

**POSITION:** FPL agrees with Staff that this issue is subsumed within Issue 109 and should not be included in the Prehearing Order.

## REVENUE REQUIREMENTS

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

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Issue 137, which asks: "Is FPL's requested annual operating revenue increase appropriate? A. For the 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?" All of the parties' positions concerning FPL's requested annual operating revenue increase requirements can be stated effectively in responding to Issue 137. Issue 138 is thus duplicative and would be inappropriate to include in the Prehearing Order. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

## COST OF SERVICE AND RATE DESIGN ISSUES

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

**POSITION:** FPL agrees with Staff that this issue would more appropriately be addressed in the Conservation Cost Recovery Docket. This issue is not a base rate item and should not be included in the Prehearing Order.

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

**POSITION:** FPL agrees with Staff. The subject of this issue is fully encompassed in Issue 168 which asks: "What is the appropriate method of designing time of use rates for FPL?" All of the parties' positions concerning FPL's method of designing time of use rates can be stated effectively in responding to Issue 168. Accordingly, FPL agrees with Staff that this issue should not be included in the Prehearing Order.

**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)

**POSITION:** FPL believes that this is not an appropriate issue and should not be included in this proceeding. There has been no testimony or evidence presented by any party in this proceeding and the proposal is nothing more than a concept suggested by a consultant without any supporting documentation and who is not even a party in this case. OPC has not presented an actionable proposal which can be evaluated by the Commission. Most importantly, any such conceptual proposal should have as an overall requirement that it be revenue neutral, and that no rate class should be adversely impacted by such a concept. As a result, it would be more appropriate that customers who are requesting such an option be requested to submit a detailed proposal and recommendation to FPSC Staff, and Staff should

then determine if a separate workshop or other proceeding should be held for all IOUs.

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

**POSITION:** This issue is unnecessary because all elements of FPL's revenue requirements and appropriate rates to generate those revenue requirements are fully subsumed by the existing issues. Therefore, FPL believes this issue should not be included in the Prehearing Order.

### **OTHER ISSUES**

**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)

**POSITION:** FPL believes this is not an appropriate issue for this base rate proceeding. This docket only addresses test year 2010 and a subsequent test year for 2011. The year 2014 is clearly far outside the scope of this proceeding. Furthermore, the Commission has full earnings surveillance authority over FPL and could initiate a proceeding to review rates for 2014 at a more appropriate time, i.e., in 2013. There is no evidence in the record, nor have any parties filed testimony, to address the appropriate level of base rates in 2014, and to suggest that a determination can be made in this docket would be speculation at best.

**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)

**POSITION:** FPL believes that this is an appropriate issue to be included for the Commission's determination. The Commission, in a separate proceeding, will establish new Demand Side Management (DSM) goals for the ten-year period beginning January 1, 2010. This docket may significantly increase the goals for FPL and other electric utilities, which would have a corresponding effect and reduce customer consumption of electricity. The effective date of the DSM goals established in the separate proceeding parallels the proposed effective date of FPL's requested base rate increase. The decision in the DSM docket will be made in advance of a rate case decision. As a result it will be important to reflect any decision made in that proceeding and the impact it will have on FPL's future level of kWh sales and resulting revenues.



**CONCLUSION**

For the foregoing reasons, FPL respectfully requests that except for Issue No. 175, the issues identified in Order No. PSC-09-0552-PCO-EI should not be included in the Prehearing Order. FPL also respectfully requests that Issue No. 175 be included in the Prehearing Order for the Commission's determination.

Respectfully submitted,

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