

Marguerite McLean080677-EI
090130-EI

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Tuesday, August 11, 2009 4:52 PM
To: Filings@psc.state.fl.us
Cc: Anna Williams; Barry Richard; Brian Armstrong; Bryan Anderson; cecilia_bradley@oag.state.fl.us; D. Marcus Braswell ; Jack Leon; Jean Hartman; Jennifer L. Spina; John McWhirter; John Moyle; John_Butler@fpl.com; John T. LaVia; Ken Hoffman; Kenneth L. Wiseman; Lisa Bennett; Lisa M. Purdy; Mark F. Sundback; Marlene Stern; Martha Brown; Natalie F. Smith (Nattie_Smith@fpl.com); Schef Wright; Scott E. Simpson; Shayla L. McNeil; Stephanie Alexander; Tamela Ivey Perdue; support@saporitoenergyconsultants.com; vkaufman@kagmlaw.com; Wade Litchfield
Subject: e-filing (Dkt. Nos. 080677-EI & 090130-EI)
Attachments: 080677.memorandum on issues.pdf

Electronic Filing

a. Person responsible for this electronic filing:

Joseph A. McGlothlin, Associate Public Counsel
 Office of Public Counsel
 c/o The Florida Legislature
 111 West Madison Street, Room 812
 Tallahassee, FL 32399-1400
 (850) 488-9330
 mcglothlin.joseph@leg.state.fl.us

b. Docket Nos. 080677-EI and 090130-EI

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

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

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 32 pages.

e. The document attached for electronic filing is OPC's Memorandum in Support of OPC's Proposed Issues.

(See attached file: 080677.memorandum on issues.pdf)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
 Office of Public Counsel
 Telephone: (850) 488-9330
 Fax: (850) 488-4491

DOCUMENT NUMBER-DATE

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8/11/2009

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO.: 080677-EI
FILED: July 21, 2009

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

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

OPC'S MEMORANDUM IN SUPPORT OF OPC'S PROPOSED ISSUES

Pursuant to Order of the Prehearing Officer No. PSC-09-0552-PCO-EI, dated August 6, 2009, the Citizens of the State of Florida, through the Office of Public Counsel, submits this Memorandum In Support of OPC's Proposed Issues.

Role of Prehearing Order

At the outset, it is important to have in mind the purpose and role of the Prehearing Order. The identification of issues is an integral part of the hearing process. It is an obvious truism, but one worth stating here, that without issues there will be nothing to resolve and no necessity for a hearing. The sole purpose of an administrative hearing is to receive evidence and develop a record that will form the basis for the decisionmakers' resolution of issues. The Prehearing Order serves three functions. First, it serves to inform the Commissioners as to the issues that the parties have raised and intend to pursue during the hearing process. Second, it provides parties the opportunity to articulate their positions on the issues that they have identified at an early point in the proceeding. Finally, because they are incorporated into the final recommendation and the vote sheet, the issues in the Prehearing Order become the vehicle by which the Commissioners demonstrate to affected parties that they have considered and expressly voted on the specific disputes that the parties have brought to them.

DOCUMENT NUMBER-DATE

08356 AUG 11 09

FPSC-COMMISSION CLERK

Two important observations proceed from the above functions. First, any “shortcut” in the issue identification process is a disservice to the Commissioners, who rely on the Prehearing Order to inform them about the nature of the controversy that they are being called upon to referee. Second, any inadequacy in the issue identification exercise quickly takes on due process implications. It follows that the approach to the identification of issues should be inclusive. The prehearing process should focus on whether issues raised by parties are duplicative and can be combined; whether issues identified by a party are indeed raised by the utility’s request and the party’s objections to the request; and whether the issues have been worded and phrased appropriately. The prehearing process should *not* be an exercise in foreclosing parties from identifying legitimate issues, or impeding their right to a process that presents their concerns squarely to the Commissioners for rulings. These considerations seem fundamental, but are placed at risk by proposals to favor overly “broad” issues that “subsume” the specific matters that parties have addressed in testimony and that they are calling on the Commissioners to decide.

OPC’s Detailed Depreciation-Related Issues Belong In The Prehearing Order

When a utility is not seeking a revenue requirements determination at the same time it submits a new depreciation study and proposes revised depreciation rates, the Commission assigns the depreciation study a separate docket number. In fact, in this case Docket No. 090130-EI was assigned to FPL’s current depreciation study. This docket was consolidated with Docket No. 080677-EI for hearing purposes.

The depreciation study sponsored by FPL witness Richard Clarke occupies three volumes totaling more than 700 pages. Of FPL's total requested "cost of service," depreciation expense amounts to \$1,143,000,000.

The \$1+ billion annual accrual for depreciation expense is a total sum that is a "build-up" of the accruals that relate to numerous individual accounts for plant items. Depreciation expense is determined by subtracting from an item of plant's original cost the difference between its salvage value and the cost of removing the plant upon retirement. This "depreciable value" is divided by the service life of the plant to calculate the annual accrual of depreciation expense. The \$1 billion + figure in this case is the sum of numerous accounts that have been evaluated for service life, salvage value, and cost of removal. Each of these values—service life, salvage, and cost of removal—is the result of the analyst's review of data, methodology and rationale. Each step of the calculation is potentially the subject of disagreement. Each such disagreement carries with it the difference between the sum of dollars calculated by the original analyst and the different amount that is associated with the alternative view presented by the challenging party.

In his testimony, OPC witness Jacob Pous takes issue with many of FPL's contentions regarding the service life, salvage value, and cost of removal that should be associated with its plant items for the purpose of developing depreciation accruals and depreciation rates. Based on a "from the bottom up" approach, Mr. Pous testifies that FPL has overstated depreciation expense by more than \$200 million annually. The total amount is the sum of numerous individual adjustments in which Mr. Pous disputes the assumptions, methodology and/or rationale of FPL's witness on the subject. An example of Mr. Pous' adjustments is attached to this motion as Attachment 1. Mr. Pous sets out FPL's approach; identifies the basis for Mr. Pous' disagreement with FPL; identifies Mr. Pous' alternative; supports that alternative with the

facts and reasoning that Mr. Pous employed in his analysis; and quantifies the difference in depreciation expense that would result from adopting his adjustment to FPL's proposal. Those individual adjustments range in materiality from hundreds of thousands of dollars to tens of millions of dollars.

In OPC's Prehearing Statement, OPC included a specific issue that corresponds to each of the disagreements between Mr. Pous and FPL's Mr. Clarke. The issues read as follows:

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 (Proposed by OPC)

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

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? (Proposed by OPC)

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? (Proposed by OPC)

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? (Proposed by OPC)

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)*

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 (Proposed by OPC)

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 (Proposed by OPC)

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? (Proposed by OPC)

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? (Proposed by OPC)

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? (Proposed by OPC)

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

OPC Witness Jacob Pous addresses each of these subjects in his testimony. Each issue is one that the Commission must decide in the course of its ruling on FPL's proposed depreciation expense.

OPC's format of including subissues under an issue is logical, and has precedent. For instance, it is similar in concept and format to the manner in which the Commission identified the subissues involved in the dispute over inputs to the computer models used to generate values for TELRIC in past telecommunications cases. See, for instance, excerpt from Order No. PSC-00-1655-PHO-TP in Docket No. 990649-TP (attached for the convenience of the Prehearing Officer as Attachment 2). There, as here, individual components to a calculation were in dispute, and were identified separately.

Staff's preferred formulation of the section on issues reads as follows:

DEPRECIATION STUDY

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

POSITION: Staff has no position at this time.

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

In its Prehearing Statement, Staff contends that the individual issues that OPC identified are “subsumed” –primarily in Staff’s Issue 19. If this approach were applied to the other areas of the rate case, the Prehearing Order would limit its treatment of major topics along these lines:

Issue __. What is the appropriate rate base?

Issue __. What are the fair and reasonable rates that FPL should charge its customers?

Of course, the Commission doesn’t approach these areas of activity in such broadly worded “issues.” Instead, it recognizes that such issues are the “fallout” formulations that result from numerous individual rulings on specific issues. During the issue identification meeting, a Staff representative observed with respect to the numerous specific issues in the area of rate design that each is a ruling the Commissioners must make, and each has associated with it a direct impact on revenue requirements. OPC wholeheartedly agrees. The identical observations apply to the depreciation area.

Staff’s formulation would not apprise the Commissioners of the specific items that the parties have raised through their participation. Moreover, Staff’s formulation would not present for direct, explicit ruling the issues that parties have raised.

During the issue ID conferences, Staff took the position that the Commission will vote on remaining lives and final depreciation rates, and that Staff’s treatment of the parties’ presentations on service lives, salvage, and cost of removal will be discussed prior to the recommendation on remaining lives. If OPC understands Staff correctly, it would follow that if the Commission adopts Staff’s formulation the Commissioners would not vote directly and explicitly on the disputes over service lives, salvage values,

and cost of removal values that the parties have addressed in testimony. Thus, the Prehearing Order would serve neither its function of informing Commissioners nor its function of assuring transparency of the decisionmaking process. OPC is aware that some depreciation dockets proceed with no intervenors. Staff's suggested approach would be well suited to such a scenario. However, when an intervenor actively challenges the utility's proposed values and supports alternatives, under Staff's suggested format the explicit dispute would become one step removed from the notification and decision process. If the disputed components are "rolled up" into a recommendation on remaining lines and depreciation rates, the parties will be unable to discern whether the Commission agreed or disagreed with their contentions.

Affiliated Transactions

An excerpt from Staff's Prehearing Statement will serve to tee up the presentation on the specific issues in the area of affiliated transactions that Staff believes should not be articulated in the Prehearing Order:

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

POSITION: Staff has no position at this time.

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

POSITION: Staff believes that this issue proposed by OPC is subsumed in 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: Staff believes that this issue proposed by OPC is subsumed in 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: Staff believes that this issue proposed by OPC is subsumed in 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: Staff believes that this issue proposed by OPC is subsumed in 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: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

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: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

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: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

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

POSITION: Staff believes that this issue proposed by OPC is subsumed in 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: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

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

POSITION: Staff believes that this issue proposed by OPC is subsumed in Issue 109 and should not be included in the Prehearing Order.

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?

POSITION: Staff has no position at this time.

OPC sponsors the testimony of Kimberly Dismukes, who specializes in affiliated transactions. The corporate organization of FPL Group, of which FPL is a subsidiary, is vast and complex. An organizational chart showing the many corporate entities to whom FPL is related, and with whom FPL deals in one form or another, is attached to Ms. Dismukes' testimony as KHD-2; it occupies 27 pages. The interrelationships are numerous, varied and significant. Ms. Dismukes' testimony covers both the allocation of shared costs among the related entities and transactions between them. She identifies several individual items that in her opinion would require FPL's customers to subsidize other entities, and quantifies the adjustments necessary to remedy them. OPC has framed an issue around each such adjustment.

Again, bear in mind the typical treatment of rate base, net operating income, and rate design. In each of those areas, traditionally the questions such as "What is the appropriate rate base?" is regarded as the ultimate, cumulative, fallout issue that results from the disposition of individual, specific matters raised and addressed by the parties. The area of affiliated transactions should be no different. The adjustments identified by Ms. Dismukes are separate matters. They are the subject of separate discussions within her testimony. Each requires a separate, discrete consideration by the Commission. The single issue that Staff proposes is so broad and general

that it will not serve to apprise the Commissioners of the nature of the dispute; will not provide an adequate opportunity to parties to articulate their positions and the reasons for those positions; and will not present for disposition by vote the precise questions that the parties call on the Commissioners to decide. Without repeating all of the arguments submitted in support of including individual issues relating to the depreciation area, OPC submits that ‘subsuming’ the individual issues into one broad and vague “affiliated transaction” issue would hinder the Commissioners’ ability to gain an understanding of the nature of the parties’ disputes, impede OPC’s ability to articulate its reasoning for the adjustments, and prevent a straightforward and transparent submission for decision.

Salaries and Compensation

OPC has made three independent adjustments to FPL’s labor costs, including regular payroll; executive incentive compensation; and non-executive incentive compensation. Incentive compensation is designed and administered in a different manner than FPL’s regular payroll and should be considered separately. Executive and non-executive incentive compensation are handled in similar manners; however, the factors used in budgeting for such incentive costs are different. OPC believes the Commission should consider each of these issues independently.

Regular payroll. OPC’s witness testifies that FPL’s regular payroll is inflated due to budgeting for a level of historically unfilled positions. OPC has adjusted FPL’s regular payroll to reflect these unfilled positions and has made adjustments to overtime to reflect the need to fulfill some of the work requirements that will not be met due to unfilled positions. This adjustment reduces jurisdictional 2010 test year operating and maintenance expenses by \$9.245 million and

jurisdictional 2011 test year operating and maintenance expenses by \$9.654 million. If OPC understands correctly Staff has included OPC's issue on regular payroll.

Incentive compensation. FPL's executive incentive compensation is designed to reward executives for meeting financial and operational goals and objectives. Based on the plan objectives, OPC contends that 50% of this incentive compensation should be borne by shareholders as such levels of compensation enhance shareholder value. In addition, FPL has budgeted for executive incentive compensation in excess of market target compensation levels and OPC is recommending that the revenue requirements be limited to the market target compensation. This adjustment reduces jurisdictional test year operating and maintenance expenses by \$27.509 million in 2010 and \$29.400 million in 2011.

FPL's non-executive incentive compensation is designed to reward non-executives for meeting financial and operational goals and objectives. Based on the plan objectives, 50% of this incentive compensation also should be borne by shareholders as such levels of compensation enhance shareholder value. In addition, FPL has budgeted for executive incentive compensation in excess of market target compensation levels and OPC is recommending that the revenue requirements be limited to the market target compensation. This adjustment reduces jurisdictional test year operating and maintenance expenses by \$5.661 million in 2010 and \$6.640 million in 2011. Because OPC's witness has made separate adjustments to executive and non-executive compensation levels, the Prehearing Order should provide an issue for each.

Prepayment Rate

During the service hearings, several customers mentioned that they would like the ability to prepay their electric bills and to receive a discount from FPL for having provided the money to FPL in advance of their usage. During the issue identification meetings, OPC framed an issue to give this subject a “home” in the event the Commission wishes to pursue the possibility. FPL objected on the grounds that no witness has addressed the matter in prefiled testimony. However, the transcripts of the service hearings are a part of the evidentiary record in this case. Moreover, there is precedent for the proposition that testimony received during the service hearings is a sufficient basis to support the identification of an issue. In Docket No. 080317-EI (TECO rate case), a school superintendent appeared in a service hearing to request consideration of a rate design that would provide a discount to schools. That testimony formed the basis for the inclusion of an issue on the subject. See Attachment 3. Similarly, the issue proposed by OPC would provide a procedural basis for the Commission to consider the request of those who testified on the subject of a prepayment rate design, if it is inclined to do so.

Respectfully submitted,

J.R. Kelly
PUBLIC COUNSEL


Joseph A. McGlothlin
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street

Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

Attorney for Florida's Citizens

CERTIFICATE OF SERVICE
DOCKET NO. 080677-EI & 090130-EI

I HEREBY CERTIFY that a copy of the foregoing **OPC'S MEMORANDUM IN SUPPORT OF OPC'S PROPOSED ISSUES** has been furnished electronically and by U.S. Mail on this 11th day of August 2009.

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

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

Anna Williams
Jean Hartman
Lisa Bennett
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Thomas Saporito, President
Post Office Box 8413
Jupiter, Florida 33468-8413

Kenneth L. Wiseman, Mark F. Sundback
Jennifer L. Spina, Lisa M. Purdy
Andrews Kurth LLP
1350 I Street NW, Suite 1100
Washington, DC 20005

Bryan S. Anderson
Senior Attorney
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, FL 33408-0420

Robert Scheffel Wright, Esq.
John T. LaVia, II, Esq.
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, FL 32301

Robert A. Sugarman
D. Marcus Braswell, Jr.
Sugarman & Susskind, P.A.
100 Miracle Mile, Suite 300
Coral Gables, FL 33134

John W. McWhirter, Jr.
Florida industrial Power Users Group
c/o McWhirter Law Firm
P.O. Box 3350
Tampa, FL 33601

Bill McCollum
Cecilia Bradley
Office of Attorney General
The Capitol-PL01
Tallahassee, FL 32399-1050

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

South Florida Hospital and
Healthcare Association
6030 Hollywood Blvd.
Hollywood, FL 33024

Brian P. Armstrong, Esq.
Marlene K. Stern, Esq.
Nabors, Giblin & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL 32308

Stephanie Alexander
Tripp Scott, P.A.
200 West College Ave., Suite 216
Tallahassee, FL 32301

Barry Richard
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301

Tamela Ivey Perdue, Esq.
Associated Industries of Florida
516 North Adams Street
Tallahassee, FL 32301

Captain Shayla L McNeil
AFLOA/JACL-ULT
AFCESA
139 Barnes Drive, Suite 1
Tyndall Air Force Base, FL 32403


Joseph A. McGlothlin
Associate Public Counsel

ATTACHMENT 1

1 R5 Iowa Survivor Curve. (PUCN Docket No. 06-11023 at Statement A). In addition,
2 other utilities recommend longer lives. Oncor Delivery Company ("Oncor"), the largest
3 utility in Texas, proposed a 70-year ASL with a R3 dispersion in its current rate case.
4 The reality is that the industry historically has established artificially short ASLs for this
5 account, and given the normally low dollar level of investment generally associated with
6 this account for many utilities such proposals have received very limited attention.
7 Moreover, while the 95-year ASL that I recommend appears to be high from an industry
8 standpoint, the reason is as explained above and correlates to identifiable, Company-
9 specific facts.

10

11 **Q. WHAT IS THE IMPACT OF YOUR RECOMMENDATION?**

12 A. The standalone impact of my recommendation results in a \$2,437,236 reduction to
13 annual depreciation expense.

14

15 **Q. WHAT DOES THE COMPANY PROPOSE FOR ACCOUNT 353 -**
16 **TRANSMISSION STATION EQUIPMENT?**

17 A. The Company proposed a 38 R1.5 life-curve combination. (See Exhibit CRC-1, page
18 495).

19

20 **Q. WHAT IS THE COMPANY'S BASIS FOR ITS PROPOSAL?**

21 A. The Company performed an actuarial analysis and asserts that its interpretation of the
22 results shows a 38 to 39-year ASL. The Company then claims that the 38 to 39-year life
23 estimate was "typical for this account in the industry." It concludes by stating that the
24 curve types for this account are low mode "R" type Iowa Survivor Curves, but failed to
25 provide any basis for that assertion.

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Q. DO YOU AGREE WITH THE COMPANY PROPOSAL?

A. No. After the review of the actuarial analyses and industry data it is clear that the Company's proposal is inaccurate and inadequate. Therefore, I recommend a 43-year ASL with a corresponding L1 Iowa Survivor Curve.

Q. WHAT IS THE BASIS FOR YOUR RECOMMENDATION?

A. The Company has misinterpreted the results of its actuarial analysis. On an initial review, the Company's interpretation of the actuarial analysis might appear to the lay person be a good statistical fit. However, the Company's interpretation is erroneous, in that it places greater significance on the "tail" end of the survivor curve where the exposures are but a small fraction of the exposures that occur near the top or "head" of the survivor curve. This misplaced emphasis represents a lack of understanding of the proper matching process to be employed when interpreting the results of actuarial analyses. As shown on Exhibit __ (JP-6) page 1 of 15, my recommended 43 L1 life-curve combination is a better fitting curve match through the first 16 ½ years of age and is a comparable curve fit to the Company's proposal from 16½ years through approximately 23 ½ years of age. Only at that point does the Company's proposal become a better fitting curve fit through approximately 36 years of age. What is significant regarding this comparison is that the top or "head" portion of the curve is based on plant exposures of approximately \$1.3 billion. (See Exhibit CRC-1, page 498). That level of exposures drops to approximately \$500 million or 40% as of 16 ½ years of age. The Company's proposed curve fit does not begin to represent a closer fit to the historical data until 23 ½ years of age, where the exposures are approximately \$271 million, or only 21% of the original exposures.

ATTACHMENT 2

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into
pricing of unbundled network
elements.

DOCKET NO. 990649-TP
ORDER NO. PSC-00-1655-PHO-TP
ISSUED: September 18, 2000

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on August 28, 2000, in Tallahassee, Florida, before Commissioner E. Leon Jacobs, Jr., as Prehearing Officer.

APPEARANCES:

NANCY B. WHITE, ESQUIRE, and E. EARL EDENFIELD, ESQUIRE,
150 South Monroe Street, Suite 400, Tallahassee, Florida
32301
On behalf of BellSouth Telecommunications, Inc.

JOHN P. FONS, ESQUIRE, Ausley & McMullen Law Firm, 227
South Calhoun Street, Tallahassee, FL 32302, and CHARLES
REHWINKEL, ESQUIRE 1313 Blairstone Road, Tallahassee,
Florida 32301
On behalf of Sprint Communications Company, Limited
Partnership.

JOSEPH A. MCGLOTHLIN, ESQUIRE, McWhirter, Reeves,
McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen,
P.A., 117 South Gadsden Street, Tallahassee, Florida
32301
On behalf of Florida Competitive Carriers Association,
Intermedia Communications, Inc, and Z-Tel.

JAMES LAMOUREUX, ESQUIRE, 1200 Peachtree Street, Suite
1200, Atlanta, Georgia 32309, and FLOYD R. SELF, ESQUIRE,
Messer, Caparello and Self, Post Office Box 1876,
Tallahassee, Florida 32302
On behalf of AT&T Communications of the Southern States,
Inc.

DOCUMENT NUMBER-DATE

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PSC-00-1655-PHO-TP

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ORDER NO. PSC-00-1655-PHO-TP
DOCKET NO. 990649-TP
PAGE 2

DONNA CANZANO MCNULTY, ESQUIRE, MCI WorldCom, Inc. 325
John Knox Road, The Atrium Building-Suite 105,
Tallahassee, Florida 32303
On behalf of MCI WorldCom, Inc.

RICHARD D. MELSON, ESQUIRE, Hopping Green Sams & Smith,
P.A., Post Office Box 6526, Tallahassee, Florida 32314
On behalf of MCI WorldCom, Inc. and Rhythms Links, Inc.

JEREMY MARCUS, ESQUIRE, Blumenfeld & Cohen, Suite 300,
1625 Massachusetts Ave., N.W., Washington, DC 20036
On behalf of Rhythms Links Inc.

SCOTT A. SAPPERSTEIN, ESQUIRE, Sr. Policy Counsel, 3625
Queen Palm Drive, Tampa, Florida 33619
On behalf of Intermedia Communications, Inc.

MICHAEL HAZZARD, ESQUIRE, Kelley Drye & Warren, LLP, 1200
Nineteenth Street N.W., Fifth Floor, Washington, DC 20036
On behalf of Z-Tel Communications, Inc.

VICKI GORDON KAUFMAN, ESQUIRE, McWhirter, Reeves,
McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen,
P.A., 117 South Gadsden Street, Tallahassee, Florida
32301, NORTON CUTLER, ESQUIRE, and MICHAEL BRESSMAN,
ESQUIRE, Five Corporate Centre, 801 Crescent Centre
Drive, Suite 600, Franklin, Tennessee 37067
On behalf of BlueStar Networks, Inc.

CATHERINE F. BOONE, ESQUIRE, 10 Glenlake Parkway, Suite
650, Atlanta, Georgia 30328, and CHARLES PELLEGRINI,
ESQUIRE, 2145 Delta Boulevard, Suite 200, Tallahassee,
Florida, 32303
On behalf of DIECA Communications, Inc. d/b/a Covad
Communications Company.

MICHAEL SLOAN, ESQUIRE, Swidler Berlin Shefeff Friedman,
LLP, 3000 K Street, NW, Suite 300, Washington, DC 20007-
5116
On behalf of Broadslate Networks of Florida, Inc.,
Cleartel Communications, Inc., and Florida Digital
Network.

005777

ORDER NO. PSC-00-1655-PHO-TP
DOCKET NO. 990649-TP
PAGE 3

J. JEFFRY WAHLEN, ESQUIRE, Ausley & McMullen Law Firm,
227 South Calhoun Street, Tallahassee, Florida 32301
On behalf of ALLTEL Communications, Inc.

MICHAEL A. GROSS, ESQUIRE, 310 North Monroe Street,
Tallahassee, Florida 32301
On behalf of Florida Cable Telecommunications
Association.

PETER DUNBAR, ESQUIRE, and KAREN M. CAMECHIS, ESQUIRE,
Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., Post
Office Box 10095, Tallahassee, Florida 32302-2095
On behalf of Time Warner Telecom of Florida, L.P.

KELLY KESTER, ESQUIRE, Koger Center, Ellis Building,
Suite 200, 1311 Executive Center Drive, Tallahassee,
Florida 32301
On behalf of Supra Telecommunications & Information
Systems, Inc.

BETH KEATING, ESQUIRE, WAYNE D. KNIGHT, ESQUIRE, and
DIANA W. CALDWELL, ESQUIRE, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850
On behalf of the Commission Staff.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this
Order is issued to prevent delay and to promote the just, speedy,
and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

On December 10, 1998, in Docket No. 981834-TP, the Florida
Competitive Carriers Association (FCCA), the Telecommunications
Resellers, Inc. (TRA), AT&T Communications of the Southern States,
Inc. (AT&T), MCIMetro Access Transmission Services, LLC and
WorldCom Technologies, Inc. (MCI WorldCom), the Competitive
Telecommunications Association (Comptel), MGC Communications, Inc.

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ISSUE 7: What are the appropriate assumptions and inputs for the following items to be used in the forward-looking recurring UNE cost studies?

- (a) network design (including customer location assumption);
- (e) structure sharing;
- (f) structure costs;
- (g) fill factors;
- (h) manholes;
- (i) fiber cable (material and placement costs);
- (j) copper cable (material and placement costs);
- (k) drops;
- (l) network interface devices;
- (m) digital loop carrier costs;
- (n) terminal costs;
- (o) switching costs and associated variables;
- (p) traffic data;
- (q) signaling system costs;
- (r) transport system costs and associated variables;
- (s) loadings
- (t) expenses
- (u) common costs
- (v) other.

POSITIONS

BELLSOUTH:

The appropriate assumptions and inputs that should be used in the development of forward-looking recurring costs are those set forth in the cost studies filed by BellSouth on August 16, 2000, and as explained in the prefiled testimony of BellSouth witnesses D. Daonne Caldwell, Walter S. Reid, Joseph H. Page, W. Keith Milner, James W. Stegeman, Ronald M Pate, and Wiley G. Latham.

SPRINT:

No position at this time, except as to Issues 7(n) and 7(r).

ATTACHMENT 3

ISSUE 110: Is it appropriate to establish a customer specific rate schedule for county (K-12) public schools in this proceeding?

POSITIONS

TECO: No. It is not appropriate and it would result in subsidization by all other customers. Furthermore, TECO does not have sufficient load research data necessary to develop such a rate; however, it is likely that for county public schools, a cost-based rate would result in rates higher than current rates. (Ashburn)

OPC: No position.

OAG: We adopt the positions of Public Counsel.

AARP: Same as Office of Public Counsel.

FIPUG: No position.

FRF: No position.

STAFF: No. When the Commission moved to cost-based rates following the adoption of the Public Utility Regulatory Policies Act (PURPA), specific end-use rates were eliminated in favor of rate classification based on usage characteristics. Specifically, in Order No. 8950, issued on July 13, 1979, the Commission found that:

Separate rate schedules should be allowed only to the extent that they reflect different use and load characteristics and hence, different costs associated with serving that class of customers. As a result, rate schedules to serve specific customers, (cotton gins, commercial bakeries, all-electric customers, etc.) will no longer be permitted and such classifications as "commercial" or "industrial" should be eliminated.

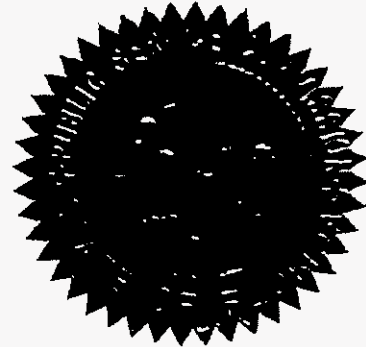
There is no evidence in this record that county public schools exhibit specific usage characteristics that would allow a cost based rate to be designed. In response to staff Interrogatory No. 227, TECO states that the load research the company has on county public schools does not represent a statistically valid sample that could be used for purposes of providing a separate class of service in its retail cost of service study. TECO further states that the usage characteristics of the county public schools that were included in the load research sampling process, indicate a higher cost of service for county public schools than either the GSD or GSLD rate class, the rate classes in which schools are currently included.

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 080317-EI

In the Matter of:

PETITION FOR RATE INCREASE BY TAMPA
ELECTRIC COMPANY.



PROCEEDINGS: TAMPA SERVICE HEARING

BEFORE: CHAIRMAN MATTHEW M. CARTER, II
COMMISSIONER LISA POLAK EDGAR
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, October 21, 2008

TIME: Commenced at 6:00 p.m.
Concluded at 10:10 p.m.

PLACE: Dr. Blaise F. Alfano Conference
and Banquet Center
11606 North McKinley Drive
Tampa, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

DOCUMENT NUMBER-DATE

FLORIDA PUBLIC SERVICE COMMISSION 10372 NOV-4 8

FPSC-COMMISSION CLERK

1 this rate increase.

2 I think it's fair that there be some rate increase,
3 perhaps a third, maybe even 50 percent, but what's being
4 proposed is just not tenable at this time. So as one, from one
5 public servant to another, I really want you to think very,
6 very carefully about the impact of this upon our citizenry.
7 Thank you so much for your attendance here tonight. And I am
8 so pleased to see so many of our active citizens here to share
9 their thoughts with you.

10 CHAIRMAN CARTER: Thank you, Commissioner.

11 Next we have the Superintendent of Schools in
12 Hillsborough County, Ms. MaryEllen Elia. And please forgive me
13 if I didn't pronounce your last name properly.

14 Whereupon,

15 MARYELLEN ELIA

16 was called as a witness on behalf of the Citizens of the State
17 of Florida and, having been duly sworn, testified as follows:

18 DIRECT STATEMENT

19 SUPERINTENDENT ELIA: That's fine. Thank you very
20 much for the opportunity to speak today and to address some
21 issues that are very important for the school district in
22 Hillsborough County.

23 First of all, let me give you a little bit of
24 information about Hillsborough County. We are the eighth
25 largest school district in the nation and we serve

FLORIDA PUBLIC SERVICE COMMISSION

1 approximately 191,000 students.

2 The rate increase that is, that is proposed, and we
3 believe that we have the correct information but it has changed
4 multiple times, will impact Hillsborough County public schools
5 by approximately \$10 million to \$12 million if both the
6 proposed fuel and base rate are imposed. And our projections
7 are a 19 percent fuel increase and a 9 percent base increase.

8 Let me just give you a little history. Last year our
9 electricity bill was approximately \$39 million, and this year
10 without increases we anticipate that those costs will move to
11 \$40 million since this last August we opened up five new
12 schools. Schools are different kinds of customers and I think
13 that that is a very important thing to keep in mind. I am part
14 of the superintendents organization in the state and I know
15 that our board members are part of the Florida School Board
16 Association, and all of them, all of us collectively are very
17 concerned about these rate increases.

18 I say that schools are different kinds of customers
19 because we are. Number one, we can't pass this rate increase
20 on to anybody. All we can do -- and I appreciate Mr. Kelly's
21 comments about fair, reasonable and prudent. I think it's very
22 important to realize that in the economic environment that we
23 are in right now the school districts in Florida, the school
24 budget in Florida for K-12 has been decreased by approximately
25 12.5 percent. For Hillsborough County our decrease from

1 May of '07 to May of '08 was approximately \$40 million. So our
2 projected decrease in funding coming next year is somewhere
3 between \$30 million and \$40 million if the projections are
4 based on what currently are the revenue streams into the state.

5 I say all that so that you understand that a
6 \$10 million to \$12 million increase in the cost of our energy
7 where we are to do our business, we must do that, we're going
8 to end up having to take away services to 191,000 families.
9 And I think it's very important to see that school districts
10 are different customers.

11 Hillsborough County Public Schools has approximately
12 240 school sites. We are billed as 240 different customers.
13 Now there are lots of ways for you as the Commissioners to
14 address the issue of school districts are different kinds of
15 customers. One of them would be that in fact the school
16 systems be considered a single customer, not with all the
17 different sites they have throughout our counties in Florida,
18 but that that, that alone would help us in terms of our rate.
19 Operating in the schedules of buildings requires that our rates
20 are not as good as other commercial customers simply because
21 the way that we have usage of our energy is not spread out like
22 it is perhaps for other commercial customers and it ends up
23 being a detriment to us so that the load factors punish school
24 systems, and I think that's a very important thing to keep in
25 mind. We're in a position where to do our job we can't have

1 our kindergarteners there for extended days so that we can make
2 a better load count. It just doesn't work that way, does it?
3 And so the reality is that that in itself punishes us on our
4 rates.

5 I would agree with our city representative on the
6 issues related to conservation. We need to enhance the
7 conservation programs and give greater incentives for energy
8 conservation through all of the providers of energy in the
9 state. It shouldn't need to be a problem. It should be
10 particularly that, that those different kinds of customers, our
11 schools, that people are anxious to work to make sure that that
12 happens.

13 You know, the rates, and I know you probably are very
14 well versed in the rates, but the rates for the schools are
15 very difficult to understand. We've got to figure this out.
16 If you as the Public Service Commission agree with these
17 rates -- Hillsborough County is only one example and all of the
18 energy providers are coming to you for rate increases --
19 understand you are going to be influencing 67 counties where we
20 have schools and that all of those children and families in
21 those schools are affected by your decision and the rates that
22 go to schools.

23 It's a very difficult -- I don't want to be in your
24 position. I understand that it's hard to decide who should be
25 considered different, but I would suggest to you that school

1 districts are a different kind of customer and they have to be
2 treated that way.

3 COMMISSIONER ARGENZIANO: Mr. Chairman, may I ask a
4 question?

5 CHAIRMAN CARTER: Thank you.
6 Commissioner Argenziano.

7 COMMISSIONER ARGENZIANO: I would like to ask staff a
8 question. Because in finding and being a Public Service
9 Commissioner in the past year, a little over a year I've been
10 finding there are things that we can and do have jurisdiction
11 over, and then a lot of times I'm finding the public doesn't
12 know that many times we're mandated by the Legislature in
13 certain areas, and they are the policy, policymakers. And as
14 OPC had said, they are an arm of the, they are part of the
15 Legislature. So is the PSC. But what I like to answer while
16 she's here in front of us is do we have jurisdiction to look at
17 buildings separately or together or is that a policy issue?
18 Because that -- then I know how to move forward with that. And
19 then perhaps we can ask OPC as well as the AARP to help lobby
20 our legislators for the changes we need because we need to be
21 doing that too. So if staff could answer that.

22 MR. WILLIS: Commissioner, probably, probably the
23 best way I can answer that is that the Commission can't
24 discriminate within a rate class itself. You can look at how
25 rates or revenue requirements are spread among different rate