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November 16, 2009

-VIA HAND DELIVERY-

Ms. Ann Cole, Director
Division of the Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 080677-EI

Dear Ms. Cole:

On behalf of Florida Power & Light Company ("FPL"), I am enclosing for filing in the above docket the original and fifteen (15) copies of FPL's Post-Hearing Brief and Statement of Issues and Positions. Also enclosed is a CD containing the above-referenced document in Word format.

Please feel free to contact me at the phone number above should you have any questions.

Sincerely,

John T. Butler

Enclosures
cc: Counsel for parties of record (w/encl.)

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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: November 16, 2009

FLORIDA POWER & LIGHT COMPANY'S POST-HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS

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PART ONE: FPL'S POST HEARING BRIEF

I. INTRODUCTION

Florida Power & Light Company ("FPL" or "the Company") is committed to providing its customers with affordable, reliable, clean and safe electric service. FPL takes this commitment seriously. The Company recognizes that it is accountable to customers and must invest and manage wisely in order to continue to provide exceptional service.

Florida's system of utility regulation has worked well. Customers of FPL have monthly electric bills that are the lowest of all 54 utilities in the state. A typical FPL customer using 1,000 kilowatt hours saves roughly $25 per month compared to other Floridians, or about $300 a year. FPL's typical bill is also below the national average.

FPL's performance in fulfilling its obligation to serve has been and remains superior. That performance has saved FPL customers up to $1.3 billion annually compared to other utilities, and those savings will continue to build and expand if we are able to continue investing. Approval of FPL's rate request is necessary if FPL is to continue down the path of providing affordable, reliable, clean-energy solutions now and in the future.

The reason FPL's bills are low now is largely due to the significant investments FPL has made in building one of the most fuel-efficient generation fleets in the nation. And the reason FPL's bills will stay low in the future is through continued investments to improve the fuel efficiency of our fleet.

FPL's investments in making its power plants more efficient have saved customers nearly $3 billion in fuel savings compared with a 2002 baseline. That means lower pass-through fuel charges and lower customer bills. Looking ahead, FPL estimates that customers will save an additional $1 billion per year by 2014 if the Company is financially able to continue to invest in

fuel-efficiency improvements. FPL is committed to keeping electric bills affordable for customers over the long term, and the base rate increase is vital to ensuring that FPL has the resources to do so.

Although FPL's rate request will increase the amount that customers pay on the base portion of their monthly electric bill, this will be more than offset by the decrease in the fuel portion of the bill. The net result is that the typical customer bill will be $6 lower in 2010 than it is currently.[1] These fuel savings are the result of two factors: declining fuel prices and FPL's investments in making its generation fleet more fuel efficient. Absent the efficiency investments FPL has made over the past seven years, next year's fuel bill for customers would have been significantly higher. This is the fundamental logic of the rate case: up-front capital investments pay off in the form of lower costs and more reliable service over time.

FPL has also built a track record as a provider of reliable electrical service. On the basic measure of minutes without power, FPL's customers enjoy reliability that is 47% better than the national average. FPL is committed to maintaining and improving the reliability of the electric service provided to customers, and the base rate request will allow FPL to fulfill that commitment. Although the 2009 storm season was mild by historical standards, FPL's obligation is to continually make the system stronger against severe weather.

No less important is FPL's commitment to delivering clean energy to its customers. More than 70% of the power FPL produces comes from low-carbon natural gas and emissions-free nuclear power. The result is that FPL's carbon dioxide emissions rate is 40% better than the national average and, at about 800 pounds per megawatt hour compared to a national average of 1,350 pounds per megawatt hour, among the very best in the country. To continue protecting

[1] FPL previously projected that bills would be $9 lower per month in 2010 even with the approval of FPL's base rate request. With the Commission's recent decision in Docket No. 090001-EI to refund 2009 fuel cost over recoveries as a lump sum credit, monthly bills are now projected to be about $6 lower per month in 2010.

Florida's environment and to protect our customers financially when a federal price on carbon dioxide is enacted, it is critical that FPL continue to invest in reducing the emissions rate of its generation fleet.

In order to carry out its plan to invest $16 billion in the state's electrical infrastructure over the next five years, FPL will need to maintain its financial strength. By preserving FPL's ability to borrow money at reasonable interest rates, granting the rate request will save customers money on financing costs over the long run. Conversely, if FPL's financial strength is allowed to deteriorate, the Company's ability to borrow and invest will be severely constrained. This would put at risk the investments the company is planning to make in preserving affordable and reliable electrical service for our customers.

FPL is asking the Florida Public Service Commission (the "Commission" or "FPSC") to preserve the same capital structure – the split between equity and debt on the balance sheet – that it has maintained for more than 10 years to help keep its cost of borrowing low. The proportions of equity and debt are important for FPL much in the same way that the percentage of equity and debt is important to a home owner. Having enough equity in the business provides confidence to lenders, so that they will provide their best interest rates and terms to finance the necessary investments in infrastructure. The 55.8% adjusted equity ratio that FPL is seeking to maintain has benefited customers by producing very low costs of borrowing, helping to keep customers bills low. This is because when lenders look at FPL, they see more than a dollar of equity for every dollar of debt, providing a higher degree of assurance that debts incurred by FPL will be repaid on time and with interest. This keeps FPL's costs down and is good for customers.

Another vital element of FPL's ability to attract capital is the return on equity ("ROE") that it offers to equity investors. Equity investors earn a return on their investment only after all

other costs of the business are paid, in contrast to bondholders who receive a contractual return on their investment. The money provided to a business by equity investors is most directly at risk. ROE is not a one-size-fits-all concept. Determining an allowed ROE is a utility-specific endeavor and only by considering the specific attributes and risks of FPL can the right result be reached with respect to FPL's capital structure, ROE and overall cost of capital. FPL believes the 12.5% ROE it has requested is necessary to preserve the company's financial strength and provide customers with the level of service they expect and deserve.

Approving a strong capital structure and ROE would benefit FPL's customers. This is because financial strength allows FPL to attract capital on the most favorable terms. When one combines FPL's projected debt costs for 2010 with its other costs of capital, including equity, the result is an overall rate of return of less than 8%, which is among the lowest in the state of Florida in spite of FPL's high investment risk. At the same time, FPL's financial strength facilitates the sort of efficiency investments that make it an industry leader. FPL's financial strength has generated savings, not costs, for its customers. The Commission must not lose sight of this essential fact when it decides on FPL's rate request.

FPL understands that it must earn its customers' trust every day, and that is what FPL intends to do. FPL knows that it is difficult to explain the request for a base rate increase in the middle of a difficult economy. FPL is working to communicate to customers and other stakeholders that it is only asking for what is necessary to invest wisely in the electrical system. Acknowledging and responding to two of the more controversial issues that have been raised, FPL also pulled its request to recover costs for aviation and a significant portion of executive compensation.

FPL's hope is that the decision in this rate proceeding will be focused on providing the resources necessary for FPL to deliver affordable and reliable service to customers over the long term. FPL's customers currently have the lowest electric bills in Florida, reliability significantly above the national average, and one of the cleanest generation fleets in the nation. FPL wants to continue to provide customers with electric service that is affordable, reliable and clean, and that is what approval of this rate request will allow FPL to do.

II. BACKGROUND AND OVERVIEW

FPL's Performance (Issue 17)

FPL was last granted a general base rate increase in 1985. Since that time, FPL has added almost 2 million new customers, peak demand has nearly doubled, inflation has increased by nearly 100%, and FPL has invested $26 billion in its system. *See* Tr. 225 (Olivera). This includes $5.9 billion in the construction of new generating capacity and $11.7 billion in the expansion of FPL's transmission and distribution system. Tr. 225 (Olivera). Despite these expenditures, FPL has reduced base rates twice in the last ten years for a total customer savings of $600 million per year. Tr. 226 (Olivera). FPL has also provided customers with refunds of more than $225 million through revenue sharing. As a result, customers have received total base rate savings of more than $6 billion. *Id.*

In terms of productive efficiency, FPL is one of the top performers among comparable companies. FPL has ranked first among southeast region utilities over the past 10 years in terms of non-fuel operation and maintenance ("O&M") expenses, and FPL's performance has translated into real cost savings for its customers. Tr. 6562, 6578 (Reed); Ex. 171. In 2007 alone, this performance saved customers between $700 million and $1.3 billion as compared to O&M costs that customers would have incurred if FPL's non-fuel O&M expenses had been

merely average. *Id.* Not only is FPL a top performer, but it has actually succeeded in lowering O&M costs in the face of substantial customer growth. Since 1985, the Company has succeeded in lowering its non-fuel O&M expenses per kWh by more than 22%, while the number of customers it serves has increased by approximately 72%. Tr. 170, 195 (Olivera): Ex. 40.

The performance of FPL's generating units has been a major contributor to FPL's ability to control its base rates and keep costs low for customers. FPL's fossil fleet performance has excelled in heat rate, availability, reliability, and non-fuel O&M costs. Tr. 6276 (Hardy). FPL's fossil fleet efficiency, as measured by net heat rate, ranked "best in class" or within the top decile of electric utilities in each of the last ten years, providing lower cost generation to FPL customers. Tr. 6245-46. (Hardy). By 2011, FPL's fossil fleet will have doubled in size since 1990, but will be managed and operated with half the 1990 workforce. Tr. 6276 (Hardy). This demonstrates FPL's commitment to holding the line on O&M expenses.

The excellence of FPL's transmission and distribution service is also evident. In recent transmission reliability benchmarking, FPL's composite reliability score was in the top 25% of participants. Tr. 2375 (Sonnelitter). FPL also was "best-in-class" in the benchmarking metric Average Duration of Sustained Outages. *Id.* FPL's distribution reliability, as measured by the System Average Interruption Duration Index, has averaged 45% better than the national average for the last decade and service quality complaints have decreased by more than 50% over that same time frame. Tr. 2214-15 (Spoor). While FPL has managed to hold O&M expenses stable in both of these business units, capital expenditures continue to be necessary to maintain FPL's high level of reliability. *See* Tr. 2374 (Sonnelitter); Tr. 2214-15 (Spoor).

FPL has been recognized with several awards for providing superior customer service, including the prestigious Service One award from P.A. Consulting Group, a leading management

systems and technology consulting firm, for six consecutive years. Tr. 6205 (Santos). Such accomplishments are achieved through several strategies, including the use of leading edge technology to further enhance the efficiency and accessibility of FPL's care centers, a focus on benchmarking and surveying customers to continuously improve performance metrics, having an effective complaint resolution process, and providing various billing, payment and on-line self-service options. *Id.* FPL not only works to provide superior service but also maintains a low-cost and efficient customer service operation. In the 2008 P.A. Consulting Benchmarking Study, FPL ranked in the first quartile in cost per customer in the areas of care center, billing and payment processing. Tr. 1571 (Santos). Because FPL has such a low-cost operation, it has been more than 20 years since there has been an opportunity to evaluate the cost basis for service charges. FPL has presented ample support in this proceeding for its requested adjustments to service charges. *See, e.g.,* Tr. 1565-68 (Santos).

Intervenors in this case have made attempts to impugn the quality of service provided by FPL by mischaracterizing statements made at the service hearings and by making broad generalizations that are not based on fact. The testimony of customers at the service hearings is vitally important, and the fact is that only 55 customers out of FPL's total customer base of 4.5 million chose to complain about service levels. Tr. 1613-14 (Santos). Every complaint is important, and FPL addressed all of these complaints, as FPL does for every complaint as part of doing business each and every day. However, this is clearly not evidence of a poor quality of service – just the opposite in fact. Other generalizations were made by intervenors regarding the affordability of FPL's service, again with no supporting evidence. The fact is that, even with the full requested increase, most customer bills are going down in 2010 due to lower fuel prices and

the generation efficiencies that have resulted from FPL's past investments. In short, FPL bills will be more, not less, affordable in 2010.

Revenue Deficiency Drivers

The recent economic downturn has not only affected individuals – it has affected FPL as well. While the average number of customers on FPL's system has increased by over 190,000 since 2006, sales growth has been relatively flat. Tr. 191-92 (Olivera); Tr. 968-69 (Morley); Tr. 1229 (Barrett). Thus, the Company has needed to spend significant amounts of capital to build out an infrastructure to serve new customers, without a corresponding growth in sales revenues to cover those investments. In fact, between the end of 2006 and 2010, FPL will have incurred more than $5.6 billion in capital expenditures to meet long term growth. Tr. 187 (Olivera). Additionally, since the 2005 base rate proceeding, FPL has experienced increases in the costs of skilled labor, commodities and other materials, and most recently, significant increases in the cost of capital. Tr. 6590-92 (Reed). Without commensurate growth in sales, FPL is unable to cover these costs through existing base rates as it has done in the past. At the same time, FPL must continue to make substantial investments to preserve the high quality of service customers expect. In order to safely and reliably meet the electric needs of existing and new customers, a general increase in base rates is necessary.

The key drivers of FPL's requested base rate increase include inflation, increased regulatory commitments, system growth, infrastructure investments, depreciation changes, the requested storm reserve accrual, and the deteriorating economic conditions. Tr. 1251 (Barrett). These cost pressures have been somewhat mitigated by FPL's productivity improvement efforts. Additionally, FPL has aggressively responded to the recent economic downturn by revising its expenditure plans. The result of those actions has been a reduction in capital expenditures from

original planned expenditures of nearly $530 million in 2008, and more than $450 million in additional reductions planned for 2009. Tr. 1230, 1446 (Barrett). This effort reduces FPL's 2010 rate base and has reduced the associated revenue requirements for 2010 by $130 million. Tr. 1230 (Barrett). Despite these efforts, a significant level of spending is and will continue to be necessary and prudent. FPL must invest to meet the needs of its customers, in good times and bad, even when revenue growth does not support it. That is the nature of FPL's compact with its customers.

With respect to depreciation, FPL has presented a depreciation study that is consistent with the methodology used in FPL's last depreciation study and which follows the rules of depreciation prescribed by the Commission. Tr. 2741 (Clarke). The service lives used in this study were developed from industry-approved methodologies and appropriately incorporate FPL -specific considerations. Tr. 2760, 2765 (Clarke). This study supports FPL's proposed depreciation rates and the resulting expenses. This study also shows a theoretical reserve surplus of $1.245 billion. Tr. 6458 (Davis); Ex. 115 p. 53. The Commission should continue its long-standing reliance on the remaining life depreciation methodology to address differences between the theoretical reserve and the book reserve, as opposed to accelerating its amortization as suggested by intervenors. Accelerated amortization would have the direct and unavoidable effect of rapidly increasing rate base, the required return on rate base, and future depreciation expense – all of which will have to be borne by future customers. *See* Tr. 6400 (Davis). Requiring future FPL customers to foot higher bills so current customers can have even lower bills now is not fair, just, or reasonable. While FPL feels its proposal is most sound, there is a middle path on this issue that was suggested at hearing by Terry Deason, a former FPSC Commissioner and analyst for OPC, which could provide a measure of shorter-term relief for

customers without doing as much damage to regulatory practices and future customers' pocketbooks.[2]

The storm reserve accrual is another important component of FPL's request. Storm restoration costs are part of the cost of providing electric service in hurricane-prone Florida. FPL's risks for costly storm damage are higher than for other Florida utilities, due to its predominantly coastal service territory and high concentration of transmission and distribution assets in counties with a historically high number of hurricane strikes. *See* Tr. 3507-08 (Harris); Ex. 128. FPL has presented evidence in support of an annual accrual of $150 million and a reserve level of $650 million. Tr. 4864, 4866, 4911 (Pimentel). The storm reserve level requested by FPL is proportionate to the storm reserve level recently approved for Tampa Electric Company ("TECO") when one considers relative size and hurricane exposure. Tr. 4866-67, 4910-11 (Pimentel); Tr. 3548 (Harris); *see* Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI, pp. 16-18 (2009).

The Cost of Capital and FPL's Capital Structure

Ample evidence has been presented showing the reasonableness and appropriateness of FPL's requested ROE of 12.5% and its request to maintain the same capital structure that has been in place for the last 10 years. Approving FPL's request will give the Company an opportunity – but not a guarantee – to earn a necessary and adequate return on its investment, and will result in the opportunity to earn a very reasonable total rate of return of 7.85% in 2010 (lower than the 8.00% stated in FPL's original filing) and 8.06% in 2011 (lower than the 8.18%

[2] That middle path would be to net the approximately $314 million in early retirements associated with the Cape Canaveral and Riviera plant modernizations, the nuclear uprates and the AMI project against corresponding reserve surpluses, rather than recovering those amounts through FPL's proposed capital recovery schedules. This would decrease FPL's 2010 and 2011 revenue requirements by approximately $58.6 million and $50.6 million, respectively.

stated in FPL's original filing)[3]. Under the standard established in the U. S. Supreme Court's *Hope* and *Bluefield* cases, it is the Commission's legal duty to set a utility's return at a level sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital. *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923). Various intervenor recommendations presented in this case on the topics of ROE and capital structure would fail that test and severely undermine the financial integrity of FPL, to the detriment of its customers. It is clear that a strong financial position benefits customers in the long run by ensuring that the Company has access to debt and equity markets at reasonable costs with reasonable terms. Indeed, these benefits are evident today in FPL's low customer bills. Tr. 183, 3553, 3561 (Olivera); Ex. 163.

The Commission must evaluate FPL's appropriate ROE based on the specific risks FPL faces. As shown by uncontradicted evidence in the record, FPL is exposed to the highest risks of storm losses – that includes loss of revenues from sales when the power is out as well as storm damage costs – of any utility in Florida. Tr. 3507-08 (Harris). FPL also operates four nuclear units, which offer large fuel savings for customers but, by the same token, have high replacement power costs for which investors can be at risk during any shutdown of substantial duration. Tr. 4438-39 (Avera); Tr. 4841-42 (Pimentel). FPL is also working on the development of new, non-fossil fuel burning, zero greenhouse gas emitting nuclear plants. *See* Tr. 182 (Olivera); *see also*

[3] Certain figures reflected in FPL's original filings were affected by the adjustments subsequently made and reflected in FPL's witness Ousdahl's Exhibit KO-16 (Hearing Exhibit 358) as well as adjustments made during the course of the hearing to remove aviation costs (Exhibits 481 and 511) and reduce executive compensation costs (Exhibit 514). The final adjusted figures are reflected herein, with original figures noted. FPL has attached as Appendices I and II a series of documents for 2010 and 2011, respectively, that show the impact on Minimum Filing Requirements ("MFRs") A-1, B-1, C-1, C-44 and D-1a of FPL's proposed adjustments. FPL's adjustments appear in testimony and exhibits throughout the record, but FPL believes that the Commission and Staff may find the consolidation of that information into the standardized format of high-level MFRs useful in evaluating those adjustments.

Tr. 4841-42 (Pimentel). FPL is also subject to substantial financial risk due to being so highly dependent on natural gas, which requires FPL to support a large fuel hedging program and take other measures to mitigate such risks. Tr. 4439 (Avera); Tr. 4844 (Pimentel). And fundamentally it cannot be overlooked that FPL is geographically isolated at the end of a long peninsula with extremely limited electric interchange capacity with the rest of the United States. Tr. 4843-45 (Pimentel).

All of these clear and indisputable facts make FPL riskier from an equity investor's perspective than TECO, because TECO carries none of these characteristics. Since equity investors could have the opportunity to earn an 11.25% ROE by investing in TECO which has lower risk, it stands to reason that a higher ROE – 12.5% – is needed to put FPL on an equal risk-adjusted footing in attracting equity investors to provide the money that is necessary in order for FPL to finance and adequately support service to FPL's customers.

Intervenors suggest that FPL is a low risk utility therefore deserving a low return. That argument is unsupported by the record and without merit. Rather than actually addressing FPL's equity risks, intervenors point to ROEs granted other companies (and simple averages of such returns) with different risks, in different states, at different times – nearly all of which have low credit ratings. *See* Ex. 462. None of these companies face the potent combination of business risks that FPL has to manage. The Commission should not be persuaded to gamble the financial strength of an already low-cost electric provider, and the accompanying benefits for customers, on the speculative assertion that nothing bad will happen.

Subsequent Year Adjustment

Even with the requested 2010 rate relief, it is clear that additional rate relief will be needed in 2011. FPL has demonstrated the financial need for a 2011 Subsequent Year

Adjustment ("SYA"), as well as the legal authority for and regulatory appropriateness of approving the 2011 SYA request at this time. The SYA will avoid the potential for back-to-back base rate proceedings. *See* Tr. 1217 (Barrett). The SYA leverages the fact that all parties are already participating in a rate proceeding, so that the Commission can review the 2010 and 2011 needs at the same time. *Id.* By approving the SYA, the Commission will enable the Company to maintain earnings stability and minimize future administrative costs. As always, the Commission will continue to monitor results using monthly earnings surveillance reports – contrary to any misconception that the SYA somehow avoids future Commission earnings oversight. Tr. 6686 (Deason).

Generation Base Rate Adjustment

FPL also has demonstrated the benefits associated with the continuation of the Generation Base Rate Adjustment ("GBRA") mechanism. This mechanism allows for the recovery of costs associated with new generation which have been previously reviewed by the Commission in a need determination proceeding. Subsequent Commission oversight is preserved via monthly earnings surveillance reports. The GBRA approach coordinates the base rate impact of new units with the offsetting benefit that occurs as a result of corresponding and often substantial fuel cost decreases associated with the addition of new, highly efficient units. Contrary to assertions of intervenors, there is no risk that the GBRA could cause an over-earnings situation. Tr. 6794 (Deason). Placing assets into service using the GBRA, actually will move the Company's earnings towards its authorized mid-point – whether that mid-point is above or below what the Company is currently earning. Tr. 1494 (Barrett); Tr. 3732, 3735 (Ousdahl).

Allocation of Revenue Requirements and Rate Parity

Traditionally, base rate cases have been used as the vehicle for improving parity among rate classes. Tr. 4185 (Deaton). Residential and small business customers presently subsidize large commercial and industrial customers by paying more than their fair share of costs, as demonstrated by FPL's cost of service study. FPL's proposed allocation of revenue requirements is designed to improve parity among the rate classes. *See* Tr. 4192-93 (Deaton). Not surprisingly, the Florida Industrial Power Users Group ("FIPUG"), Florida Retail Federation ("FRF"), and South Florida Hospital and Healthcare Association ("SFHHA") all oppose the move toward parity because it would address the comfortable but unjustified subsidy that industrial and large commercial customers (the customers those intervenors represent) currently receive from residential and small commercial customers.[4]

Conclusion

Absent the requested rate relief in 2010 and 2011, the Company projects that it will earn an ROE of only 5% in 2010 (4.7% as originally filed) and 3.6% in 2011 (3.1% as originally filed). Tr. 3624 (Ousdahl); Ex. 120; *see also,* Exs. 358, 481, 511, 514. These rates of return are well below what is required to continue to meet the needs of the Company and its customers. As evidenced in the testimony and exhibits of FPL's witnesses and as summarized in this brief, FPL's requested annual rate increase of $959 million beginning in 2010 and an additional increase of $237 million beginning in 2011, as well as the continuation of the GBRA, are fully warranted and necessary. The requested increases will provide FPL with a reasonable opportunity to earn a fair rate of return on the Company's investment in property used and useful

[4] Many large customers represented by intervenors earn healthy ROEs, further calling into question these intervenors' positions on rate parity. For example, Publix's ROE for 2008 was 19.3%, Wal-Mart's ROE for the fiscal year ended January 31, 2009 was 20.6%, Tenet Health's ROE for 2008 was 31.8%, and PraxAir's ROE for 2008 was 26.5%. Tr. 4875 (Pimentel).

in serving the public (including the $5.6 billion in capital expenditures since 2006 alone), and enable the Company to make investments that are needed to continue delivering affordable, reliable, clean electricity over the long term.

III. LEGAL STANDARD FOR COMMISSION DECISION-MAKING

The Commission is obligated to base its decisions on record evidence and within the confines of controlling law. As an administrative agency, the Commission is governed by the Administrative Procedure Act, Chapter 120, Florida Statutes. In contested proceedings, the APA provides that "[f]indings of fact shall be based upon a preponderance of the evidence...and shall be based ***exclusively on the evidence of record and on matters officially recognized.***" Section 120.57(1)(j), Fla. Stat. (emph. added). The Commission is also obligated to set "fair, just, and reasonable rates." *See* Section 366.06(1), Fla. Stat. Rates must be fair and reasonable to FPL as well as to its customers. Accordingly, the Commission must determine new just and reasonable rates if it finds that "such [current] rates are insufficient to yield reasonable compensation for the services rendered[.]" Section 366.06(2), Fla. Stat.

"Reasonable compensation" includes both the recovery of prudently incurred costs of providing service, and the opportunity to earn an appropriate ROE. The U.S. Supreme Court has determined that an appropriate ROE is one which is consistent with returns on investments that have similar risk characteristics. *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923); *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). Additionally, the appropriate rate of return is one which will enable the Company "to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties." *Bluefield*, 262 U.S. at 693. Both the U.S. Supreme Court and the Florida Supreme Court have held that setting the ROE is a utility-

specific, factual determination. *Bluefield*, 262 U.S. at 692; *United Tel. Co. v. Mayo*, 345 So. 2d 648 (Fla. 1977).

IV. THE 2010 TEST YEAR

A test year in rate proceedings measures expenses, investments, costs of capital, taxes, and billing determinants as they are projected to exist during the period for which rates will be in effect, so as to allow the Commission to "test" whether rates approved will allow the utility the opportunity to earn its authorized rate of return. The test year must be representative of future conditions which reflect the effective date of new rates. *Id.* FPL's proposed use of the 2010 Test Year meets these regulatory principles, while the use of a 2009 or earlier test year does not. Tr. 6595 (Reed); *See* Tr. 1217 (Barrett). The Company's forecast of revenue requirements for the 2010 test year is reliable for setting new rates. The Company filed a full set of Minimum Filing Requirements ("MFRs") for the 2010 test year, which were the result of a thorough forecasting process. Specifically, the forecasts were based on assumptions prepared by internal and external subject experts and reviewed and approved by management using a rigorous process. Tr. 1229-30 (Barrett).

A. FPL's Use of a 2010 Test Year is Consistent with Florida Law, Commission Rule and Commission Precedent (Issues 1 and 2)

The Florida Supreme Court, in a unanimous 1983 opinion, unequivocally affirmed the propriety of using a projected test year in rate cases. In *Southern Bell Tel & Tel. Co. v. Public Service Comm'n,* the Court stated that "[n]othing in the decisions of this Court or any legislative act prohibits the use of a projected test year by the Commission in setting a utility's rates. We agree with the Commission that it may allow the use of a projected test year as an accounting mechanism to minimize regulatory lag." *Southern Bell Tel & Tel. Co.,* 443 So. 2d at 97 (Fla. 1983).

Several years after the Supreme Court's ruling in *Southern Bell Tel & Tel. Co.*, the Commission adopted Rule 25-6.140 of the Florida Administrative Code, which codified a utility's authority to submit projected test years in rate proceedings. Specifically, Rule 25-6.140(1)(a) states, "(1) At least 60 days prior to filing a petition for a general rate increase, a company shall notify the Commission in writing of its selected test year and filing date. This notification shall include: (a) An explanation for requesting the particular test period. . . . ***If a projected test year is selected***, there shall be an explanation of why the projected period is more representative than an historical period." (emph. added). FPL's use of a projected test year is clearly consistent with this Commission rule. Over the past two decades, the Commission has permitted the use of projected test years in numerous electric base rate proceedings. *See, e.g.*, Docket No. 830465-EI (FPL 1983); Docket No. 920324-EI (TECO 1993); Docket No. 01949-EI (Gulf Power Company 2002); Docket No. 050045-EI (FPL 2005 Settlement Agreement); Docket No. 050078-EI (Progress Energy Florida 2005); Docket No. 080317-EI (TECO 2008).

B. The City of South Daytona's Claims Lack Merit

The City of South Daytona ("CSD") claims: (i) the projected test year is limited to situations in which the projected test year has become a historic test year at the time evidentiary hearings begin; (ii) projected test years cannot be used when setting electric rather than water utility rates; and (iii) Section 366.06(1) of the Florida Statutes only permits use of a historic test year. As explained below, CSD's arguments against the use of a 2010 test year are contrary to Florida law and should be rejected.

CSD ignores the dispositive *Southern Bell* case and instead points to an earlier case, *Citizens of the State of Florida v. Public Service Comm'n and Florida Power Corp.*, 425 So. 2d 534 (Fla. 1982), for the contention that use of the projected test year is limited to situations

where the projected test year has already become a historic year by the time evidentiary hearings are held. CSD ignores the fact that the rate proceeding in *Citizens* was litigated on the bases of what was, at the time, projected data. 425 So. 2d at 536. CSD also argues, unpersuasively, that the Commission is permitted to use projected test years when setting water utility rates pursuant to Section 367.081, Fla. Stat., but prohibited from doing so when setting electric utility rates pursuant to Section 366.06, Fla. Stat. This argument ignores the plain language and intent of both statutes. The language relied upon by CSD in Section 367.081, Fla. Stat., relates only to a determination of the level of used and useful rate base, and it is silent as to revenues and expenses or the use of projected test years in setting rates. Section 366.06, Fla. Stat., establishes that at a minimum, the Commission is obligated to investigate and keep a record of the net investment in property and use the value recorded for ratemaking purposes. No reasonable reading of the statute suggests that this is the only data the Commission can use in setting rates or that the use of projected test years is prohibited. Accordingly, these statutes fail to support CSD's arguments. As described above, FPL's use of a 2010 test year is consistent with Florida law, Commission rule, and Commission precedent, and provides reliable data for analyzing the Company's expected costs of providing service.

V. THE 2011 SUBSEQUENT YEAR ADJUSTMENT

The record shows that FPL should be granted a 2011 SYA to its revenue requirements. Specifically, assuming the 2010 increase request is implemented, FPL has demonstrated that it will still need to collect an additional $237 million ($247 million as originally filed) in order to maintain its financial integrity and have an opportunity for a fair and reasonable rate of return in 2011. Tr. 1417 (Barrett); *see also,* Exs. 358, 481, 511, 514. This amount excludes the revenue

requirements associated with WCEC Unit 3.[5] FPL's projections for 2011 are reliable not only because the process was rigorous, as intervenors acknowledge (*see* Tr. 2496 (Brown)), but also because the forecasting assumptions have recently been tested and proven to be reliable. Indeed, as explained by FPL witness Morley, FPL's projected 2011 sales forecast appears to be conservative. Tr. 1063 (Morley). In other words, FPL may have understated its revenue requirements for 2011 further reinforcing that a SYA is needed. *Id.*; Tr.1363, 5921(Barrett).

A. The FPSC has the Legal Authority to Approve the SYA (Issue 4)

Section 366.072(2), Florida Statutes, and Rule 25-6.0425, Fla. Admin. Code, expressly authorize SYAs. Further, the Commission's authority to use projected test years can apply to SYAs, as there is no restriction on the time period that may be used for the projected test year. *See, Southern Bell Tel & Tel Co. v. Public Service Comm'n*, 443 So. 2d 92 (Fla. 1983). Therefore, the Commission has authority under *Southern Bell* to approve a rate increase to go into effect in 2011, based on a 2011 test year.[6] This authority to grant a SYA was confirmed by the Florida Supreme Court in *Floridians United for Safe Energy, Inc. v. Public Service Comm'n.*, 475 So. 2d 241 (Fla. 1985). The SYA is a valuable and useful regulatory tool that is appropriate in these circumstances for the Commission to meet its statutory obligations to all parties. Tr. 6683 (Deason).

[5] FPL proposes to collect the revenue requirements associated with WCEC Unit 3 through the continued use of the GBRA mechanism. In the event the GBRA is not continued, FPL's requested SYA amount would need to be adjusted upward, by recognizing the WCEC Unit 3 costs beginning in June 2011 when the plant is expected to begin commercial operation.

[6] On numerous previous occasions, the Commission has granted subsequent year rate relief. *See, e.g.*, Order No. PSC-09-0283-FOF-EI, Docket No. 080317-EI, dated April 30, 2009 (2008 TECO rate case); Order No. PSC-93-0165-FOF-EI, Docket No. 920324-EI, dated February 2, 1993 (1992 TECO rate case); Order No. PSC-92-1197-FOF-EI, Docket No. 910890-EI, dated October 22, 1992 (1991 Florida Power Corporation rate case); Order No. 13537, Docket No. 830465-EI, dated July 24, 1984 (1983 FPL rate case). Granting a SYA is an accepted and recognized method of addressing FPL's increasing costs and earnings deterioration in 2011.

B. The Information Demonstrating the Need for the SYA is Reliable (Issues 6, 7)

The forecasted information for the 2011 and the 2010 Test Years submitted in this proceeding has been developed to the same standard as the information in the Company's 2009 budget, and as such, has been demonstrated to be appropriate for ratemaking in this proceeding. Tr. 1217 (Barrett). The Company's sales forecast for 2009 used in the preparation of the MFRs has proven to be extremely accurate through July of 2009, with a weather normalized variance of less than 0.1%. Tr. 5843 (Morley); Tr. 5921 (Barrett). Additionally, as of April 2009, the Company's updated base O&M forecast for 2009 is within 1% of the Company's 2009 budget. *Id.* The Company's updated capital forecast, as projected in April 2009, is within 1.3% of the Company's capital budget. Tr. 5921-22 (Barrett). The Company's performance against its sales forecast, O&M budget and capital budget confirm that its forecast process and assumptions are reliable. Tr. 5922 (Barrett).

OPC witness Brown's assertions that, if recovery is faster or slower than expected under FPL's assumptions there is potential for excess earnings in 2011 at customers' expense, is speculative at best and is not substantiated by record evidence. Additionally, it is overly simplistic to assume that a faster economic recovery will increase earnings for the Company. *See* Tr. 5922-23 (Barrett). Any risk posed by use of a 2011 forecast is, at most, symmetrical. Tr. 5923 (Barrett). In fact, FPL witness Morley testified that FPL's forecast may be conservatively optimistic (indicating that FPL's SYA request may be too low). Tr. 1042, 1063 (Morley). Based on the most recent University of Florida population forecast, FPL's 2011 sales as filed are overstated by about 1.5%. Tr. 5843 (Morley). This significantly decreases the likelihood that the Company would be in an overearnings situation for 2011. Thus, if there is any risk, it is more likely to work against the Company than customers. Tr. 1363 (Barrett). If the Company

nonetheless overearns due to a robust economy recovery, or any other reason, the Commission always has jurisdiction to initiate a rate decrease proceeding.

C. The SYA is Beneficial to Both FPL and its Customers (Issue 5)

SFHHA witness Kollen asserts that FPL would not be harmed if the Commission rejects the proposed 2011 SYA. Tr. 3112 (Kollen). This assertion should be rejected for several reasons. Mr. Kollen ignores the significant impact on the time and resources of the Company, as well as the cost in time and resources to the Commission, its staff, and all other interested parties. Tr. 5924 (Barrett). The Company has been able to meet its regulatory commitment to file timely and accurate financial information without building a large permanent staff devoted to processing rate cases, in part because the filings have been infrequent. Tr. 5925 (Barrett). Moreover, a stable regulatory environment has allowed FPL and its customers to benefit from a business model that is highly customer-focused and operationally driven. If base rate proceedings were to become a regular occurrence, the current business model would likely need to change, with the potential for adding costs that would be borne by customers. *Id.* Therefore, it is clear that the approval of FPL's proposed SYA will provide significant benefits to FPL and its customers.

VI. CONTINUATION OF THE GENERATION BASE RATE ADJUSTMENT

The GBRA was initially established pursuant to FPL's 2005 Stipulation and Settlement Agreement approved by Order No. PSC-05-0902. The GBRA has been and remains an effective regulatory tool for the Company to recover costs associated with new generation,[7] while

[7] The GBRA is very different from the Transmission Base Rate Adjustment ("TBRA") proposed by TECO and rejected by this Commission. Most significantly, the Transmission Line Siting Act does not include the same, rigorous cost-effectiveness reviews required by the Power Plant Siting Act. As a result, the cost-effectiveness of transmission additions is not approved prior to construction in the same manner that the cost-effectiveness of generation additions is proven and approved. In addition, transmission additions generally have lower costs compared to generation additions, so the necessity of recognizing the associated revenue requirements is generally lower for transmission additions.

preserving Commission oversight via need determination proceedings and the ongoing earnings surveillance process. Tr. 1410-11 (Barrett); Tr. 3568 (Olivera); Tr. 4225-26 (Deaton).

A. GBRA is an Effective Regulatory Tool (Issue 8)

New power plants are large investments that have a material and immediate impact on base rates when the plants reach commercial operation. Tr. 6697 (Deason); Tr. 1412 (Barrett). The GBRA mechanism matches increased revenue requirements associated with a power plant with the offsetting fuel savings for that plant. Tr. 1421, 5927 (Barrett). Some of the reasons why the GBRA mechanism is an important regulatory tool are because it:

- Strikes the appropriate balance of risks: Cost under-runs are automatically returned to customers through the Capacity Clause while any cost over-runs are borne by the Company unless demonstrated to be prudent. Tr. 5926 (Barrett); Tr. 3733-34 (Ousdahl); Tr. 4200-01, 4258 (Deaton).

- Allows the Company to make investments in generation despite decreasing revenues: In contrast to the 2.9% retail sales growth observed between 1999 and 2006, retail sales growth is expected to decline 0.6% between 2006 and 2010. Tr. 5927-28 (Barrett). FPL can no longer 'absorb' the significant increases associated with new generation to its base costs, necessitating a GBRA type cost recovery mechanism. Tr. 5927-28 (Barrett), responding to Tr. 2423 (Brown).

- Provides substantial customer savings: FPL projects that investments included in base rates through the GBRA, along with efficiency improvements of the existing fossil fleet, will help FPL achieve over $3 billion in fuel savings from 2003-2009, which are passed to customers through the fuel clause. Tr. 4217-18 (Deaton); Ex. 167. Going forward, FPL's rate request and continuation of the GBRA will allow continued investments in efficiency improvements that are expected to yield savings of $1 billion per year by 2014. Tr. 4217, 4225 (Deaton); Ex. 167.

In light of the substantial benefits associated with this mechanism, the Commission should extend the use of the GBRA for FPL.

B. GBRA Will Remain Subject to Continued Regulatory Oversight (Issue 8)

The Commission's oversight of the GBRA began with the Commission's review and subsequent approval of the mechanism in FPL's 2005 Stipulation and Settlement Agreement, to

which OPC, the Attorney General, SFHHA, FIPUG, FRF, and FEA were signatories. Since then, the Commission has continued to oversee the Company's implementation of the GBRA in many ways. For example:

- GBRA-eligible projects must undergo a need determination. A need determination is a rigorous and extensive process that ensures a given plant is needed and is the most cost-effective alternative. Tr. 6697 (Deason); Tr. 1252, 1494 (Barrett).

- The Commission approves the amount of the GBRA through the Capacity Clause projection filing process. Tr. 6696 (Deason).

- Costs recovered through the GBRA are limited to those approved in the need determination. Tr. 6697 (Deason); Tr. 1493 (Barrett); Tr. 4256-57, 4265, 4287 (Deaton). This would also apply to the Cape Canaveral and Riviera Beach plant modernization projects, for which the bid rule was waived by the Commission.

- Commission and Staff review the effects of the GBRA on a monthly basis. The effects of revenue and expense increases and decreases for all Company base rate operations are reviewed through the monthly surveillance process. Tr. 1419, 1494, 5927 (Barrett); Tr. 4281, 4315, 4317-18 (Deaton).

If continuation of the GBRA is approved, all of these opportunities for Commission oversight and scrutiny will remain intact. Accordingly, intervenors' claims that the GBRA is not subject to continued oversight are incorrect.

C. GBRA Design and Implementation (Issues 9, 11, 13)

Pursuant to the 2005 Settlement Agreement, the GBRA mechanism is implemented by adjusting base charges and non-clause recoverable credits (e.g., the transformer rider credits and curtailable service credits) by an equal percentage. Tr. 4200 (Deaton). The calculation of this percentage change in rates is based on the ratio of the jurisdictional annual revenue requirement, as presented in the need determination proceeding, and the forecasted retail base revenues from the sale of electricity during the first twelve months of operation. *Id.*; Tr. 4259-60 (Deaton). Customers are protected from costs above those projected in the need hearing because any costs above this level are not accounted for in the GBRA, and are subject to separate Commission

review if FPL petitions for recovery of those incremental costs. Tr. 6699 (Deason); Tr. 4258 (Deaton).

To the extent capital expenditures are less than projected costs, FPL makes a one-time credit to customers through the Capacity Clause. Tr. 4200 (Deaton); Tr. 1493 (Barrett). To determine the amount of credit, FPL computes a revised GBRA using the same data and methodology as was used initially, with the exception that the Company uses actual capital expenditures in lieu of the forecasted capital expenditures used in the need hearing. Tr. 4200, 4265 (Deaton). The difference between cumulative revenues since the implementation of the initial GBRA and those that would have occurred had the revised GBRA been in place during the same period is credited to customers.[8] Tr. 4201 (Deaton). Going forward, future base rates are also adjusted to reflect the revised GBRA. *Id.*

Ignoring the fact that a detailed description of the GBRA was provided in FPL witness Deaton's direct testimony, Mr. Kollen claimed that no detailed description of the GBRA exists and that the Commission should therefore review the GBRA as a proposed tariff rather than in the context of this case. Tr. 3115-16 (Kollen). Mr. Kollen's concern is unfounded. The explanation of the mechanism, as set forth above, was included in FPL's 2005 Settlement Agreement and the Commission's Order approving the settlement, and described in this proceeding. No changes are proposed to the mechanics of the GBRA. Rather, FPL requests that the Commission simply extend the GBRA mechanism already in place as it has proven to be a successful and effective regulatory tool for matching the costs and associated fuel savings of new generation.

[8] Through the Capacity Clause, credits to customers accrue interest at the 30-day commercial rate as specified in Rule 25-6.109, Fla. Admin. Code.

D. An Earnings Test Would be Unnecessary (Issue 12)

Under the Company's proposal, only plants that have received a determination of need from the Commission are eligible for GBRA recovery. Tr. 5925 (Barrett). Need determination proceedings include a comprehensive economic analysis of the proposed plant addition, which is approved only if the proposed plant is the most cost-effective alternative for customers. Tr. 5925-26 (Barrett). As discussed above, the GBRA adjustment to base rates is then approved for implementation based upon the costs projected and approved in the need order. Tr. 1493, 5926 (Barrett); Tr. 4256-57, 4265, 4287 (Deaton). In this way, the Commission ensures that the GBRA revenue requirements include the appropriate rate of return, thereby ensuring the appropriate level of earnings for the plant. Moreover, the Commission regularly reviews the Company's overall level of earnings through the monthly earnings surveillance process. Tr. 1391, 1494 (Barrett); Tr. 4281, 4315, 4317-18 (Deaton). For all these reasons, a separate, additional earnings test is unnecessary.

Moreover, it is mathematically impossible for the GBRA to cause an over-earning situation. Tr. 1494-95 (Barrett); Tr. 3732 (Ousdahl). When placed into service, a GBRA asset can only earn the mechanism's authorized rate of return. Tr. 1494 (Barrett); Tr. 3732 (Ousdahl). Accordingly, if the GBRA mechanism's return is set at the midpoint of the Company's approved overall ROE range, placing assets into service using GBRA will always move the Company's earnings back toward that mid-point – whether that mid-point is above or below what the Company is currently earning. Tr. 1494 (Barrett); Tr. 3732, 3735 (Ousdahl). Thus, in no event could the GBRA mechanism itself cause an over-earning situation for the Company. *Id.* Accordingly, it is unnecessary to impose limitations on the GBRA (or consider denying the GBRA) due to an alleged concern about its impact on earnings.

E. FPL's GBRA Calculations are Reasonable (Issues 13 and 14)

Subject to adjustments to the applicable capital cost rates, the Company's proposed calculations for the GBRA in this proceeding are reasonable and consistent with the methodology for applying the GBRA prescribed in the Commission-approved 2005 Settlement Agreement. Tr. 3668 (Ousdahl). SFHHA witness Kollen's claim that FPL improperly calculated the WCEC Unit 3 revenue requirements for the GBRA mechanism is incorrect. Tr. 3668 (Ousdahl). It appears Mr. Kollen based his argument on a misunderstanding of the GBRA inputs. FPL witness Ousdahl fully addressed Mr. Kollen's specific claims by explaining the methodology behind the following assumptions:

- 55.8% common equity ratio: The common equity ratio of 55.8% used in the need determination revenue requirement for WCEC Unit 3 was specified in the 2005 Settlement Agreement (paragraphs 15 and 17) and is consistent with the Company's request in this proceeding. Tr. 3668-69 (Ousdahl).

- Incremental cost of debt: Consistent with the reasoning behind a need determination, plant costs are calculated using the incremental cost of capital to properly compare the economics of the various alternative generation sources. Tr. 3669, 3749 (Ousdahl).

- Short-term debt is not included: Short-term debt is not included in the incremental capital structure used in the need hearings because generation plants are long-lived assets. Tr. 3669 (Ousdahl).

- Accumulated Deferred Income Taxes ("ADIT"): The estimated ADIT associated with the first year of operation of WCEC Unit 3's revenue requirement calculation is included as an offset to the rate base. It makes no difference if ADIT is included in rate base or in capital structure because the revenue requirement impact is the same. Tr. 3749-50 (Ousdahl); Ex. 180 (MFR B-6).

- Depreciation Expense based on a twenty-five year life: The twenty-five year life was used for WCEC Unit 3's revenue requirement calculation in the need determination. Tr. 3669 (Ousdahl). This is also consistent with the useful lives for these types of plants in FPL's depreciation study. *Id.*

In light of the substantial benefits and proven success of this regulatory tool, the Commission should extend the GBRA. Nevertheless, if the Commission chooses to deny continued use of the

GBRA, costs associated with WCEC Unit 3 should be recognized in addition to the 2011 SYA, as they are not currently considered in calculating FPL's 2011 revenue requirements. FPL prepared and filed a full set of MFRs that recognize the revenue requirements associated with WCEC Unit 3 for a twelve month period. *See* Ex. 180 (MFR A-1). These revenue requirements total approximately $181.9 million, beginning in June 2011. Tr. 3752 (Ousdahl); Ex. 180 (MFR A-1, WCEC Unit 3 schedules). The Commission should recognize WCEC Unit 3 in base rates effective with the unit's planned in-service date of June 1, 2011, if continuation of the GBRA is not authorized. *See* Tr. 3621 (Ousdahl).

VII. COST OF CAPITAL

FPL requests that the Commission approve the following elements of a cost of capital framework that will enable the Company to maintain its financial integrity and access to capital on reasonable terms:

- Determine that FPL's cost of equity is 12.5%. This cost of equity is supported by the sound analyses and practical experience with equity investors presented by FPL witnesses Armando Pimentel and Dr. William Avera, and recognizes the unique combination of FPL-specific equity risk;

- Determine that FPL's cost rate for long-term debt is 5.55% for 2010 and 5.81% for 2011. This is significantly lower than the 6.80% cost rate for long-term debt recently determined for TECO – a tangible benefit of FPL's historic financial strength;

- Determine that FPL's cost rate for short-term debt is 2.96% for 2010 and 4.61% for 2011. These cost rates include both interest charges related to commercial paper borrowings based on a 30-day forward LIBOR curve and the fixed costs of maintaining the back-up credit facilities supporting FPL's commercial paper program; and

- Maintain FPL's Actual Adjusted Equity Percentage of 55.8%. FPL's long-maintained 55.8% equity percentage (as adjusted for off-balance sheet obligations) has underpinned its financial strength and supported access to capital on reasonable terms in good and bad times.[9]

[9] FPL actively manages to a 55.8% adjusted equity ratio. Certain adjustments reflected on Exhibit 358 cause the calculation of the adjusted equity ratio to equal 55.2%, and accordingly, FPL will make the required financial adjustments to maintain the 55.8% equity ratio.

Maintaining FPL's financial integrity – which has served customers so well for so long – through appropriate cost of capital decisions in this proceeding will continue serve customers by:

- Permitting FPL to continue providing low cost, reliable service;
- Enabling investments in facilities required to serve customers totaling $16 billion over the next five years – an amount that in and of itself is greater than the total rate base of many utility companies. Tr. 4841 (Pimentel); *See, e.g.*, Ex. 462;
- Helping FPL compete for capital to serve customers in a changed financial environment with much lower supply and much higher demand for capital, especially in the South. Tr. 4826-27 (Pimentel); Exs. 148 to 150;
- Permitting FPL to cost-effectively manage major company-specific risks such as the highest dollar risk exposure to storm damage costs in the nation. Tr. 4875 (Pimentel); Tr. 3507-08 (Harris); Ex. 128; Ex. 364; and
- Providing the financial strength that allows the Company to weather other FPL-specific risks that make FPL the highest electric utility equity risk in Florida and indeed much of the nation, including: operating the greatest percentage and amount of nuclear generation in Florida; development of the new Turkey Point 6 & 7 nuclear plants; and exposure to natural gas availability and price volatility due to having a much higher percentage of natural gas-fired generation than any other Florida utility. Tr. 4838-45 (Pimentel); Tr. 4395, 4398-4400 (Avera).

In addition, granting FPL's cost of capital request will result in FPL's customers paying a lower weighted cost of capital – that is to say the all-in cost of the equity, debt and other financing that supports the investment in rate base providing service to customers – than the Commission's approval in the recent TECO rate proceeding: 7.85% for FPL versus 8.29% for TECO. Ex. 513. In other words, appropriate recognition of FPL's higher risk profile and required equity return to investors still results in a lower overall financing cost to customers due in large measure to FPL's financial strength and ability to issue low cost, long-term debt.

A. Cost Rate for Short-Term Debt (Issue 67)

FPL request accurately reflects its expected cost of short-term debt. The appropriate cost rate for short-term debt is 2.96% for FPL's 2010 test year and 4.61% for 2011, which includes both interest charges related to commercial paper borrowings based on the 30 day forward LIBOR curve as of November 30, 2008 and fixed costs related to maintaining back-up credit facilities to support FPL's commercial paper program. Ex. 480.

SFHHA witness Baudino recommends an unreasonable 0.60% short-term cost of debt for FPL that fails to account for commitment fees and is based on the three-month LIBOR forecast for just one day. *See* Tr. 2577 (Baudino). Any reasonable estimate of the short-term cost of debt includes commitment fees because they are an essential element of the true cost of debt. Tr. 4909 (Pimentel). Consideration of commitment fees is also consistent with this Commission's recent decision in TECO's rate case. *See In re: Petition for Rate Increase by Tampa Electric Company*, Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI (2009). Because it is based on only a single day, Mr. Baudino's also fails to account for more recent LIBOR forecasts that indicate rates will actually far exceed his estimate in the next few months. Tr. 4909 (Pimentel).

For those reasons, the Commission should reject Mr. Baudino's estimate for the cost of short-term debt. No other cost of short-term debt is supported by the record. The appropriate percentage of short term debt in the Company's capital structure is discussed in Section VII.C.3. below.

B. Cost Rate for Long-Term Debt (Issue 68)

FPL's request accurately reflects its expected cost of long-term debt. The appropriate cost rate for long-term debt for FPL is 5.55% for 2010 and 5.81% for 2011, calculated by the weighted average cost rate of the Company's existing debt and projected debt offerings in 2009,

2010 and 2011, based on the Blue Chip consensus forecast of December 1, 2008. The cost rate of long-term debt takes into account the actual cost of debt on all of the Company's billions of dollars of outstanding long-term debt as well as projected future costs of incremental long-term debt to be issued in the future, for which forecasted interest rates are considered.

OPC witness Woolridge claims that FPL's long-term cost of debt is 5.14%. Tr. 3210 (Woolridge). This cost rate is grossly understated. To have a 5.14% weighted average cost rate for long-term debt in 2010, FPL would need to issue new long-term debt in 2009 and 2010 at an average rate of 3.70%. Tr. 4910 (Pimentel). This is below the rate for treasury securities. *Id*; Ex. 373. The Commission should disregard Dr. Woolridge's recommendation. Expecting FPL to issue long-term debt below the rate for treasury securities is obviously unreasonable. No other intervenor witness testified as to FPL's long-term debt cost.

During the evidentiary hearings, Mr. Pimentel was asked questions concerning forecasted interest rates used in FPL's computations compared with forecasted interest rates as of later times including the June and October 2009 Blue Chip reports contained in Exhibit 512. While the record shows that the forecasted interest rates as of later times including June and October 2009 contained in Exhibit 512 are somewhat lower than those contained in FPL's forecast, Mr. Pimentel explained why relying on that data to decrease FPL's long term cost of debt would be erroneous.

Mr. Pimentel explained that FPL's MFRs had been predicated on expecting to issue three year short-term debt during the first quarter of 2009 at a very low interest rate. In fact, the debt was not issued at that time and FPL instead issued longer term debt during the first quarter of 2009 at 5.96% for 30 years. Tr. 5461-62 (Pimentel). Mr. Pimentel stated, "even with the lower rates that were projected in the semi-annual survey that we are looking at here, which, again, just

for the record is the June 1 [Blue Chip] survey, if we actually reran our debt numbers based on that June 1 information, the effective interest rates ... on a cumulative basis for 2010 and 2011 would be slightly higher than they were even in our original MFR." *Id.*

Accordingly, it would be unreasonable and erroneous to adopt a lower long-term cost of debt for FPL in this proceeding based upon the more recent Blue Chip projections of interest rates – i.e. taking this one data point out of context – without also taking into account the updated facts testified to by Mr. Pimentel that even if one utilized the more recent Blue Chip projections for future interest rates, the overall long-term cost of debt would actually be higher than included in FPL's MFRs due to the actual cost of the long-term debt issued during the first quarter of 2009. Tr. 5462 (Pimentel). The Commission should approve FPL's requested cost rate of long-term debt for FPL of 5.55% for 2010 and 5.81% for 2011.

C. Appropriate Capital Structure (Issues 64, 66, 69-71, 73)

1. FPL's 55.8% Actual Adjusted Equity Ratio is Appropriate.

The Commission should approve FPL's proposed 55.8% adjusted equity ratio, which FPL has in fact maintained year-in and year-out since its 1999 Revenue Sharing Agreement. FPL's equity ratio was sustained in FPL's 2002 Stipulation and Settlement and FPL's 2005 Stipulation and Settlement. FPL's strong balance sheet has provided continuous access to both short-term liquidity and the capital markets throughout extreme events such as the 2004 and 2005 storm seasons as well as the current financial crisis. Tr. 4846 (Pimentel).

The difference between 55.8% adjusted equity ratio and the 47.9% equity ratio in FPL's proposed regulatory capital structure is that the regulatory capital structure includes components for deferred taxes, investment tax credits and customer deposits – items that are generally excluded by rating agencies and investors in evaluating FPL's capital structure. Tr. 4848

(Pimentel). It is worth noting that TECO's recently-approved regulatory capital structure common equity percentage is 47.49%, which is essentially the same as FPL's 47.9%. Tr. 5226 (Pimentel); Exs. 366, 462.

Nothing has happened since the 1999 Revenue Sharing Agreement to suggest that this Commission should reduce FPL's equity ratio. In fact, current market conditions would support the opposite result – a more conservative, less leveraged capital structure. Tr. 4846, 4888 (Pimentel). As discussed below, intervenors' claims that FPL's equity ratio should be reduced should be rejected.

First, it should be noted that OPC witness Woolridge's testimony actually recommends the same amount of equity dollars as FPL requests. The record shows that:

- When comparing FPL's book equity ratio and Dr. Woolridge's book equity ratio, there is less than a 1% difference between the equity dollar amount proposed by FPL and the equity dollar amount proposed by Dr. Woolridge. Tr. 3290 (Woolridge); Ex. 458;

- This 1% difference results only because Dr. Woolridge uses a two-point average capital structure, rather than the thirteen-month average capital structure that is consistent with regulatory reporting practices. Tr. 4891, 5149-50, 5166 (Pimentel); Tr. 3292 (Woolridge); Exs. 368, 458; and

- Had Dr. Woolridge used the thirteen-month average numbers, consistent with Commission rules, and incorporated the specific adjustments required by this Commission, his proposed equity ratio would be the same as FPL's proposed per book equity ratio. Tr. 3293 (Woolridge).

Accordingly, FPL and OPC agree that FPL's actual per book equity ratio should be utilized in this ratemaking proceeding. Tr. 4585-86 (Avera); Tr. 5165 (Pimentel).

OPC's claim that FPL's jurisdictional equity ratio should be reduced from 47.93% to 43.84% arises from OPC witness Brown's failure to account for Commission-required adjustments to FPL's capital structure for FPL's nuclear fuel lease and storm recovery bonds. Tr. 4891 (Pimentel). Had OPC's witnesses properly considered these Commission-required

adjustments, the resulting equity ratio percentage of OPC would be the same as FPL's recommended equity ratio. Tr. 5504-05 (Pimentel); Ex. 368; Ex. 369.

SFHHA witness Baudino and FIPUG witness Pollock claim that FPL's adjusted equity ratio should be reduced to 53.5% and 50.2%, respectively. Tr. 2613-14 (Baudino); Tr. 2938 (Pollock). However, both make the same incorrect apples-to-oranges comparison in their recommendations. They compare their proposed regulatory capital structure (using investor sources of capital) to the financial reporting capital structures contained in FPL's schedule D-2. Tr. 4897-98 (Pimentel); Tr. 2961-62 (Pollock). In doing so, they fail to account for Commission-required adjustments for FPL's nuclear fuel lease and storm recovery bonds.

Correcting these apples-to-oranges errors shows that Mr. Baudino actually proposes a projected book equity ratio of 50.5%, and Mr. Pollock's proposal translates to a projected book equity ratio of 46.5%. Tr. 4898 (Pimentel). These witnesses' positions would require FPL to distribute vast amounts of equity – $845 million in Mr. Baudino's case and $1.3 billion in Mr. Pollock's case – from FPL and replace those amounts with more debt, resulting in a much more leveraged company with a weaker financial structure, leaving no room for FPL to absorb unexpected financial shocks inherent in the operation of a utility. Tr. 4896-98 (Pimentel). The Commission should therefore reject Mr. Baudino's and Mr. Pollock's proposed equity ratios as unreasonable.

Dr. Woolridge and Mr. Baudino also incorrectly compare FPL's to FPL Group's capital structure, citing FPL Group's higher leverage as a reason for recommending a lower equity ratio for FPL. Tr. 4900 (Pimentel). These witnesses draw their invalid comparison by using GAAP capitalization ratios, which are inappropriate for this purpose because they do not take into account the adjustments routinely made by rating agencies and the investment community when

evaluating FPL Group Capital's credit strength. *Id.* The two largest adjustments are for non-recourse debt and hybrid capital instruments, both of which add equity and have a material de-leveraging effect on FPL Group Capital and FPL Group's capitalization. Tr. 4901 (Pimentel). Further discussion of erroneous intervenor comparisons between FPL and FPL Group's capital structure, business risk and ROE are set forth in the ROE section below.

2. Long-Term Power Purchase Agreements Should be Considered In Evaluating FPL's Capital Structure.

Unlike TECO or Progress Energy Florida, FPL is not requesting that the Commission impute equity, or make any other adjustment to the amounts included in the determination of FPL's revenue requirements in this proceeding, to recognize the effect of off-balance sheet obligations such as Power Purchase Agreements ("PPAs"). FPL is asking that the Commission recognize the actual dollar amount of equity invested in the business – not promises of future capital contributions or requests to treat FPL as if it would make such contributions. In doing so, FPL asks that the Commission consider the impact of long-term PPAs – just as investors do – when determining the reasonableness of FPL's proposed capital structure. FPL's long-term PPAs are debt-like because they impose an ongoing fixed charge independent of the company's revenues. Tr. 4443 (Avera); Tr. 4850 (Pimentel). FPL's PPAs are not gap-fillers or short term economic purchases. Investors and ratings agencies view a company with an ongoing obligation to buy power as having more risk. Tr. 4443-44 (Avera); Tr. 4850-51 (Pimentel). Investors thus lower FPL's equity ratio as a percent of the total capital structure to recognize this risk when they consider investing in FPL. *See* Tr. 4850, 5152 (Pimentel).

Considering the debt effect of FPL's long-term PPAs is essential to recognize these realities: the financial commitments associated with FPL's long-term PPAs are expressly disclosed to investors in its Securities Exchange Commission ("SEC") financial reports because

they are material and important to investors (Tr. 5104-05 (Pimentel)); and rating agencies such as Standard & Poor's ("S&P") expressly quantify the amount of debt that PPAs represent, using objective factors. *Id.* Specifically, S&P makes it very clear that for utilities that recover purchase power costs through a clause mechanism as FPL does, it assigns an objective risk factor of 25%. Tr. 4851-52, 4902 (Pimentel); Ex. 460. Moreover, this Commission[10] and other jurisdictions, including Nevada, Wisconsin, and Delaware have considered the imputed debt associated with PPAs when evaluating a utility's capital structure. Tr. 6614-16 (Reed).

Mr. Pollock's contention that considering the debt equivalence associated with PPAs would be inconsistent with the recent TECO rate case is incorrect. TECO requested that the Commission impute equity in the determination of its revenue requirements. FPL is not requesting that the Commission make any imputed equity adjustment, only that the Commission recognize the impact of imputed debt when it evaluates the reasonableness of FPL's actual capital structure. Tr. 4903 (Pimentel). The Commission therefore should reject Mr. Pollock's claim.

3. FPL's Proposed Short-Term Debt Percentage is Appropriate.

The appropriate amount of short-term debt for FPL to maintain in its capital structure is 1.18%. This level ensures adequate liquidity to benefit customers throughout seasonal and cyclical fluctuations, periods of market volatility, and periods of storm restoration. Tr. 4907 (Pimentel). While OPC and SFHHA witnesses claim that FPL should carry much larger short term debt balances, their approach would be irresponsible. *See* Tr. 4907, 5381 (Pimentel). More

[10] *In re: Petition to Determine Need for an Electrical Power Plant in Martin County by Florida Power & Light Company*, Order No. PSC-02-1743-FOF-EI (2002) and *In Re: Petition for Determination of Need for Hines Unit 2 Power Plant by Florida Power Corporation*, Order No. PSC-01-0029-FOF-EI (2001) (Commission recognizes that credit rating agencies take PPAs into consideration and considers PPAs effect on the company's cost of capital). FPL's 2005 Stipulation and Settlement Agreement (Docket No. 05-0045-EI) (the Commission recognizes the financial leverage implicit in PPAs in the approach used for surveillance reporting requirements).

short-term debt ties up liquidity needed for storm restoration or other unexpected cash requirements, as well as limiting the Company's ability to manage cash flows and handle daily fluctuations in the markets. Tr. 4907 (Pimentel). Indeed, over the last year, the Company has been working hard to reduce, not increase, the amount of short-term debt it carries. Tr. 5381 (Pimentel). This is in line with investors' increasing concerns about the amount of short-term debt companies carry on their balance sheets. *Id.*

Dr. Woolridge and Mr. Baudino recommend significant increases to FPL's jurisdictional amount of short-term debt based on an inappropriate comparison of end-of-year book debt balances presented on FPL's MFR D-2. Intervenors' claims should be rejected because:

- The short-term debt balances on MFR D-2 are for one day and are not representative of the average amount of short-term debt maintained by FPL. Cyclical cash flows significantly affect the short-term debt balance. An analysis of FPL's thirteen-month per book average short-term debt balance with the historical thirteen-month per book balances from FPL's surveillance reports provides a more appropriate comparison. Tr. 4904-05 (Pimentel).

- Intervenors fail to account for pro-rata adjustments to FPL's capital structure. The jurisdictional balance of short-term debt is reduced by the pro-rata adjustments to FPL's capital structure. Tr. 4904 (Pimentel).

- Intervenors fail to make any adjustment for FPL Fuels, Inc. The short-term debt balances on MFR D-2 include commercial paper issued for FPL Fuels, Inc. This commercial paper is not included in the short-term debt balance on MFR D-1b as FPL Fuels is recorded as a long-term capital lease obligation on FPL's regulatory books.[11] Tr. 4904 (Pimentel).

- Intervenors fail to recognize the proper and intended function of FPL's credit facility. Intervenors' suggestion that FPL should regularly maintain significant amounts of short-term debt fails to recognize other obligations and exposures that FPL's credit facility must cover. FPL's $2.7 billion credit facility primarily supports FPL Fuels Inc.'s commercial paper program, but also supports a $633 million tax-exempt debt portfolio, letters of credit required for FPL's hedging program, and additional liquidity for storm restoration requirements. Tr. 4906 (Pimentel).

[11] Due to accounting rules, FPL Fuels, Inc. is now consolidated with FPL on FPL's financial statements filed with the SEC. Thus, the commercial paper issued by FPL Fuels is included as short-term debt on FPL's balance sheet (MFR D-2) and is included in rating agency and investor evaluations of the adequacy of FPL's capital structure. Tr. 4868-69 (Pimentel).

- Intervenors fail to recognize the primary reasons for the inflated 2006 and 2007 balances that they rely on. Average short-term debt balances were up significantly in 2006 and 2007 due to the funding of storm restoration activities and fuel under-recoveries, items that are not projected to occur in the test year. Tr. 4905 (Pimentel).

FPL cannot choose when to go to the market for capital. Commercial paper acts as a bridge between long-term financings for the approximately $6 billion of debt that FPL will need to issue in the next five years. Tr. 4907 (Pimentel). An appropriate amount of short-term debt ensures that FPL will have adequate liquidity to issue commercial paper throughout seasonal and cyclical fluctuations. Tr. 4907 (Pimentel); Ex. 180 (MFR D-3). Accordingly, the Commission should approve FPL's 1.18% short-term debt ratio as an element of FPL's capital structure.

D. Appropriate Return on Common Equity (Issue 80)

Under the *Hope* and *Bluefield* standard, the Commission is required to approve a prospective return to shareholders that equals the return shareholders could expect on other investments of equal risk. Tr. 4835, 4878 (Pimentel). Thus, in its determination of an appropriate ROE, the Commission is required to assess FPL's equity risk through the eyes of an equity investor and consider factors including market risk, company-specific risk, industry risk, and regulatory risk. FPL's ROE should be established at 12.5% based on consideration of FPL's risks so that FPL can attract capital and investors have a reasonable opportunity to earn an adequate return on their investment that takes into account all of the factors required by law. Tr. 4835 (Pimentel).

The heart of FPL's ROE request is recognition that equity investors perceive FPL to be a higher-risk utility than otherwise comparable companies. The record clearly shows, and no intervenor has challenged, that FPL is subject to the highest risk of business interruption and damage due to storm loss of any utility in Florida, that FPL has the largest percentage of nuclear

generation in Florida, that FPL is at high risk of increased cost and business interruption due to dependence upon highly volatile-priced natural gas that only has two pathways into the state, that no utility in Florida (or indeed in the nation) has a comparable capital expenditure requirement ($16 billion over the next five years) and is working at the same time to develop new nuclear generation.

Recalling that equity investors only receive their first dollar of return after all other creditors including bondholders are paid in full, and that the Commission recently ordered an 11.25% ROE with respect to TECO, an equity investor considering providing capital to FPL would consider that TECO has none of the risks of (i) very high dependence on natural gas usage; (ii) FPL's quantitatively proven higher cost and interruption risks associated with storms; (iii) FPL's exposure to increased costs and business interruption associated with possible nuclear outages at its plants and indeed the financial repercussions of nuclear outages or events nationwide or worldwide; and (iv) the financial exposure and complexities of the development of new nuclear units. In addition, FPL's capital investment requirements dwarf those of TECO. From these considerations it is clear that equity investors would require a substantially greater ROE to compensate for the additional risks of investing in FPL, simply for both companies to be on a similar risk-adjusted footing and for FPL to attract the vast amount of capital FPL needs to obtain to serve customers over the next several years.

Notably, no intervenor even remotely denied or took issue that all of these major material business risks affect the investment behavior of equity investors or that they all exist for FPL. At most there was the suggestion that some utilities across the country have fuel risk; some utilities have storm risk; some utilities operate nuclear plants; and other utilities need to invest, albeit to a much less extent to serve their customers – but there is not one word in the record identifying a

single other utility that has anything like the combination of all of the risks faced by equity investors considering providing capital to FPL to serve customers. *See* Tr. 4805 (Avera); Tr. 4874-76 (Pimentel).

1. Capital Market Conditions Require Higher ROE.

In terms of market risk, the unprecedented global financial crisis is not a short-lived or one-time event. Tr. 4826, 4882-83 (Pimentel). Bottom line, fewer dollars are in the pool of equity investment available to companies as a whole, and at higher costs than was the case prior to the onset of the global financial crisis. And this is at a time when utility capital requirements, especially FPL's, are the highest they have been in a generation. Thus the Commission should consider the logical effects of high demand for equity capital, lower supply and increased equity risk perception – all factors which drive up the cost of equity – upon the equity capital markets in which FPL must compete when determining a fair and reasonable return on common equity for FPL. Tr. 4827 (Pimentel). These enhanced risks include:

- Decreased access to capital: as evidenced by the unprecedented consolidation of financial institutions, significant bank write-offs, and almost complete inability of borrowers to access capital at reasonable rates during the financial crisis. While certain financial metrics are slowly returning to normal, these events will have a long-term impact on the availability of capital. Tr. 4826, 5215, 5062 (Pimentel); Tr. 4387-88 (Avera).

- Increased cost of capital: as displayed by the spread investors require over treasuries to invest in fixed income securities, which is at levels not seen since the Great Depression. Tr. 4821 (Pimentel); Ex. 147. Although credit spreads have declined, they are still high and economic uncertainty remains. Tr. 4882, 5058 (Pimentel).

- Increased investor perception of risk: greater exposure to uncertainty requires higher -- not lower – rates of return. Tr. 4389 (Avera); Tr. 4877, 5069 (Pimentel).

2. FPL's Company-Specific Risks Support that FPL's Cost of Equity Capital is 12.5%.

FPL has several, substantial company-specific risks that none of the intervenors disputed. Tr. 4874 (Pimentel). These are the types of risks that help investors pinpoint the risk-return

profile for FPL, and determine the placement of FPL in the range of potential ROEs under the *Hope* and *Bluefield* standard discussed above. These risks include:

- FPL's particular vulnerability to hurricanes. This is due to its largely coastal service area and concentration of assets in that coastal service area. Tr. 4844, 4875 (Pimentel); *see also* Tr. 3506-08 (Harris); Tr. 3585 (Olivera); Exs. 128, 364.

- FPL's dependence on natural gas. Such reliance increases fuel price volatility, which results in greater liquidity demands to support fuel hedging and under-recoveries. Tr. 4833, 4844, 4875, 4884 (Pimentel); Tr. 305, 3585 (Olivera) Ex. 364.

- FPL's limited access to fuel supply. This is attributable to its geographic location. Tr. 4843, 4875 (Pimentel); Ex. 364.

- FPL's development of new nuclear generation. While beneficial for customers, it nonetheless represents increased risk. Tr. 4841, 4875 (Pimentel); Tr. 306-09, 3585 (Olivera); Ex. 364.

- FPL's ownership of existing nuclear generation. FPL has the highest percentage of generation from nuclear resources of any utility in the state. Tr. 4841-43, 4875 (Pimentel); Tr. 3585 (Olivera) Ex. 364.

- FPL's customer base. FPL's customer base is a largely residential and small commercial. Though this would traditionally be seen as less risky than a high industrial load, FPL's customer base has been substantially affected by the housing crisis in Florida. Tr. 4839 (Pimentel); Ex. 364.

- FPL's declining load growth. FPL's retail sales are expected to decline at an average annual rate of 0.6% between 2006 and 2010. Tr. 4839 (Pimentel); Ex. 364.

- FPL's service territory. The recession has had a disproportionate effect on Florida as a tourist-dependent state. Tr. 4837 (Pimentel); Ex. 364.

- FPL's projected capital expenditures. FPL has $16 billion of projected capital commitments over the next five years. Tr. 4841, 4875 (Pimentel); Tr. 1386 (Barrett); Tr. 3568-69 (Olivera); Ex. 364.

Intervenors over-emphasized the ability of cost recovery clauses to mitigate risks for FPL. As explained by FPL witness Avera, FPL faces a variety of risks which are only partially offset by the availability of cost recovery clauses. Tr. 4638-41 (Avera). Indeed, the very existence of a clause indicates the presence of a risk that needs to be attenuated. Tr. 4638

(Avera). It does not indicate a lower risk profile than a utility without that same clause or a utility with fewer clauses overall. Additionally, it is important to note that while clauses are intended to partially mitigate certain risks, they also impose an asymmetrical risk on the Company: for the majority of costs recovered through clauses, the best the Company can hope for is full recovery of clause costs, with no opportunity to earn a return. Tr. 4705-06 (Avera). Finally, cost recovery clauses have no effect on the risks affecting the portion of revenues collected through base rates. Tr. 4568 (Pimentel).

It would be incorrect and contrary to law to establish FPL's ROE based on returns determined by other Commissions in other states at other times for other utilities, either individually or as an average, that do not have comparable risks with FPL. Exhibit 462, discussed at the hearing, consists of a table entitled "Rate Case History" of some rate case results from 19 states, review of which shows that only one (the recent TECO case) was for a Florida or even southeastern utility. There are numerous infirmities which would make it reversible error to rely on Exhibit 462 in setting FPL's ROE, many of which are discussed below:

- The decisions do not analyze FPL's risk profile and do not involve in any way consideration of FPL's risks as required by law. Tr. 4654 (Avera);
- Most of the companies listed on Exhibit 462 have a credit rating of BBB or below, unlike FPL which has an A rating. Tr. 5227 (Pimentel). In fact, none of the companies listed have the same credit rating as FPL;
- Many of the utilities are less risky and very different from FPL; some are only transmission and distribution companies that own no generation; some do not own nuclear. Tr. 5510 (Pimentel);
- The exhibit entirely lacks any information about the risks of the entities shown on the exhibit, which would be necessary to form a conclusion as to ROE. Tr. 5322 (Pimentel);
- Indeed, none of the utilities on Exhibit 462 have the combination of large capital requirements, high storm risk exposure, high natural gas usage, existing nuclear operations and new nuclear plant development. Tr. 4805 (Avera);

- FPL's required capital investment of $16 billion over the next five years is greater than the total rate base of any company listed on Exhibit 462, and in most cases is a large multiple of the rate base of the reported companies;

- The decisions do not reflect all of the financial market information available through the time of FPL's hearing. Tr. 4654 (Avera);

- The majority of the companies on this schedule were not considered comparable to FPL by any of the cost of capital witnesses in this case. Few FPL proxy group companies (by the measure of any witness in the case) are even included on the list. Tr. 4804 (Avera); and

- The list does not reference regulatory actions resulting in higher returns on equity for some of the companies on the list, such that the list is not useful and not comparable to utilities in any relevant proxy group for FPL. Tr. 4804 (Avera).[12]

3. Regulatory and Industry Risks are Recognized by Investors and Factor into the Cost of Capital

Another specific type of risk is regulatory and political. Unlike other utilities which operate in multiple jurisdictions, FPL only operates in Florida with very few operations subject to Federal Energy Regulatory Commission ("FERC") jurisdiction. Accordingly, from an investor's standpoint, FPL's regulatory risk as a single jurisdiction utility is higher and less diversified than multi-jurisdictional utilities' regulatory risk. Tr. 4755-56 (Avera).

All three rating agencies, S&P, Moody's, and Fitch have viewed the historically constructive regulatory environment in Florida as an important influence on their assessment of business risk for FPL. Tr. 4848 (Pimentel); Tr. 4374 (Avera). This historic constructive regulatory environment is a fact underlying and moderating FPL's 12.5% ROE request. Nonetheless, evidence was presented demonstrating that the perception of a constructive regulatory environment in Florida is changing. Tr. 5408 (Pimentel). The consequence of such

[12] These same reasons make Exhibit 462 a poor guide for capital structure considerations as well. However, it may be noted that Exhibit 462 lists TECO's approved common equity percentage as 47.49%, which is TECO's regulatory common equity ratio, which is very close to FPL's 47.9% regulatory common equity ratio shown on Mr. Pimentel's Exhibit 366. Tr. 5226 (Pimentel). Thus, if the other equity percentages shown on Exhibit 462 are regulatory common equity ratios, then they are very similar to FPL's proposed equity ratio. *Id.*

risks is further upward pressure on FPL's required ROE. Adopting intervenors' recommendations would further alter the regulatory climate in Florida and dramatically reduce investor confidence in the Florida regulatory environment, thereby increasing investor perceptions of risk for FPL and other Florida utilities and requiring comparatively higher ROEs in the future to compensate for this risk. Tr. 4453 (Avera).

The Commission must also account for industry risk. Contrary to intervenors' contentions, utilities as an industry are not exposed to a lesser degree of business risk than other, non-regulated businesses. Tr. 4881 (Pimentel). The regulatory compact itself reduces some risks, but magnifies others. Specifically, utilities such as FPL cannot unilaterally increase prices for factors such as inflationary cost increases, have limited allowed (not guaranteed) returns, are capital-intensive, are obligated to serve and therefore must continuously invest in their systems, and face potentially stricter environmental control regulations. Tr. 4836-38 (Pimentel); Ex. 148. These unique attributes expose utilities to risks that other businesses do not face. Accordingly, the Commission must also consider these risks in setting an appropriate ROE for FPL, as investors do not ignore their effects on a utility's operations.

Intervenors repeatedly tried to compare the risk profiles of FPL and its parent, FPL Group, in an attempt to argue that FPL Group is riskier than FPL and that as a result FPL's requested ROE is inflated. The record shows that intervenors' position is incorrect and should be rejected:

- FPL Group includes a diversified set of businesses that have contractual protections. Tr. 4515 (Avera);

- All other things being equal, a company that operates in an unregulated market is not more risky from an investor perspective than a company that operates in a regulated monopoly market. This is because regulation eliminates some risk but brings a whole set of other risks with it, including "the risk of regulation, the risk of politics. There are lots

of risks that a regulated company has that an unregulated company doesn't." Tr. 4515-16 (Avera);

- "The unregulated portion of FPL Group is somewhat more risky in certain terms and a lot less risky in other terms.... The rating agencies in the past have indicated that they appreciate the diversification away from ... Florida and they appreciate the diversification in the generation assets and the ... regulatory risk." Tr. 5087 (Pimentel);

- Taking into account fuel type, the type of generation, the type of regulatory environment, "NextEra [FPL Group unregulated affiliate] has, on a number of those fronts ... less business risk." "I think overall in the aggregate they're [FPL and NextEra] pretty close" in terms of business risk. Tr. 5088 (Pimentel);

- While other FPL Group entities have a higher percentage of debt than FPL on a GAAP basis, the ratings agencies "make significant and substantial adjustments to the debt that FPL Group Capital actually has on its books, because there is over approximately $3.5 billion of debt on FPL Group Capital's books that is actually non-recourse," meaning that debt-holders on such FPL Group Capital projects only have the ability to go against the assets of the specific project if payment is not made on the debt, not any other FPL Group assets. Tr. 5412-13 (Pimentel). This is "very similar to the way that for Florida Power & Light Company, the storm bonds, which are non-recourse to Florida Power & Light, are taken off of Florida Power & Light Company's balance sheet." Tr. 5413 (Pimentel);

- Additionally, on the non-regulated side, FPL Group Capital issues long-term subordinated debt for which "the rating agencies actually provide 50% equity credit." Tr. 5470 (Pimentel);

- Taken together – "the fact that FPL Group Capital through NextEra Energy Resources can issue a nonrecourse debt" and the equity credit provided with respect to issuance of long-term debt subordinated debt instruments – "both of those, which are very significant, in my view are the primary reason as to why FPL Group Capital at this point is still rated an A entity." Tr. 5469-70 (Pimentel); and

- In many respects "FPL Group Capital actually has lower risk than Florida Power & Light Company, including the diversification of many activities through 26 states in the United States, also in Canada. Most of its [FPL Group Capital's] assets are under long-term power agreements with investment grade counter-parties. It also has much more diversification in the amount of generation. It is not as gas heavy as FPL is." Tr. 5470 (Pimentel).

Thus the record shows that the Commission should reject claims that FPL Group cost of equity estimates are inflated due to higher-risk unregulated operations, and that these arguments provide

no basis for selecting a cost of equity for FPL that is lower in the range presented in this proceeding.

4. Market Analyses Support a Reasonable ROE Range for FPL of 12%-13%.

FPL witness Avera recommends an ROE range of 12%-13% based on three conventional methods: the Discounted Cash Flow Model ("DCF"), the Capital Asset Pricing Model ("CAPM"), and the Expected Earnings Approach, each applied to a proxy group of comparable utilities and a proxy group of comparable non-utility companies. Tr. 4372, 4376-77 (Avera). Examination of companies which are not utilities, but which have comparable risks, is consistent with the *Hope* and *Bluefield* standard and reflective of actual investment behavior. *See* Tr. 4406-07, 4466-68 (Avera). Such an analysis is appropriate because the degree of risk is more relevant to an ROE analysis than the nature of the business, and because investor capital is fungible between companies and industries. Tr. 4407-08 (Avera); 4881 (Pimentel); Ex. 363 p. 9. Dr. Avera's non-utility proxy group contained the 66 lowest-risk industrial companies, which was narrowed from a starting group of 1,700. Tr. 4748-49 (Avera).

Dr. Avera's ROE range also incorporates a 25 basis-point adjustment for flotation costs, which is necessary for investors to have the opportunity to earn their required rate of return. This Commission regularly allows for flotation cost adjustments. Tr. 4442 (Avera); Ex. 363 pp. 56-57; *see, In re: Request for rate increase by Gulf Power Company,* Docket No. 010949-EI, Order No. PSC-02-0787-FOF-EI (June 10, 2002) (providing Gulf with a 20 basis point flotation cost adjustment); *see also, In re: Request for rate increase by Tampa Electric Company,* Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI, p. 44 (April 30, 2009) (stating that the Commission has traditionally recognized a reasonable adjustment for flotation costs on the order of 25 to 50 basis points).

Dr. Avera used a forward-looking DCF approach using Expected Earnings per Share ("EPS") as a growth measure. Tr. 4414-17 (Avera); Ex. 363 p. 12. Investors consider EPS growth rates a superior measure in the DCF model because of the known conservative payout ratio of utilities. Tr. 4415-17 (Avera); Ex. 363 p. 16. Dr. Avera's analysis excluded outliers that produced illogical results.[13] Tr. 4422 (Avera). Dr. Avera's DCF approach yielded a cost of equity generally in excess of 11% for his Utility Proxy Group and a cost of equity range that generally exceeded 13% for his Non-Utility Proxy Group. Tr. 4424 (Avera).

Dr. Avera also calculated FPL's ROE using the forward-looking CAPM, which estimates the expected market rate of return of today's investors. Tr. 4426 (Avera). Using a proxy group of dividend-paying firms in the S&P 500 and the 20-year Treasury bond yield as the risk-free rate of return, Dr. Avera's analysis implied a 10.5% ROE for his Utility Proxy Group and an 11.5% ROE for his Non-Utility Proxy Group. Tr. 4426-27 (Avera); Ex. 141. The implied ROE for FPL Group using this method is 11.2%. Tr. 4427 (Avera); Ex. 141.

Finally, Dr. Avera utilized a third test – the Expected Earnings Approach – to estimate FPL's cost of equity. This method, consistent with the *Hope* and *Bluefield* standard, references rates of return available from alternative investments of comparable risk. Tr. 4431 (Avera). Using this approach, the utility proxy group average ROE is 11.7%, with an implied ROE for FPL Group of 14%. Tr. 4431 (Avera); Ex. 142.

Intervenors OPC and SFHHA presented the cost of equity testimony of Dr. Woolridge and Mr. Baudino, respectively. Although these witnesses conducted their market analyses using two of the same capital market methods as Dr. Avera (DCF and CAPM), their approaches

[13] *Southern California Edison Company*, Opinion No. 445 (July 26, 2000), 92 FERC ¶ 61, 070 (excluding low end returns on equity comparable to utility bond yields), *Kern River Gas Transmission Company*, Opinion No. 486, 117 FERC ¶ 61, 077 (2006) (excluding outliers that are only 110 and 122 basis points above average yield for public utility debt), *ISO New England, Inc.*, 109 FERC ¶ 61, 147 (2004) (excluding 17.7% cost of equity as an extreme outlier).

contain several flaws. They both also failed to conduct an Expected Earnings analysis. Each intervenor witness then chose an ROE at the very low end of the range he derived, effectively ignoring the major FPL-specific risks. Finally, intervenors failed to account for flotation costs. Flawed analyses, plus the failure to recognize FPL's risks, plus the failure to account for flotation costs caused Dr. Woolridge and Mr. Baudino to recommend unreasonably low ROEs for FPL.

Dr. Woolridge's analysis is flawed for the following reasons:

- He used historical indices: Dr. Woolridge's DCF and CAPM analyses are based on his unsupported personal view that historical growth measures and academic studies provide better return on equity estimates. Tr. 3263 (Woolridge); Ex. 363 p. 12.

- He used the median of a set that failed to exclude outliers: In a DCF analysis, relying on the median for a series of illogical values does not correct the inability of individual cost of equity estimates to pass the fundamental tests of economic logic. Tr. 3227-28 (Woolridge); Ex. 363 p. 15.

Dr. Woolridge's use of historical indices is based on his personal, unsupported views that analysts' forecasts are inflated, and that because they do not always accurately estimate the future, they are unreliable. *See* Tr. 3256-58 (Woolridge). As explained by Dr. Avera, "[i]n finance, as in weather, no one knows the future. But no one can afford to ignore the best available forecast." Ex. 363 p. 25. Because investors use analysts' forecasts to determine whether to invest in a given firm, they are relevant and indicative of an appropriate growth rate in ROE analyses as well as consistent with the investor point of view required by the *Hope* and *Bluefield* standard. Tr. 4417-18 (Avera); Ex. 363 pp. 24-25. Dr. Woolridge's use of historical indices rather than analytical forecasts results in a faulty analysis because:

- Historical growth rates are colored by the structural changes and numerous challenges faced by the utility industry. Ex. 363 p. 12.

- Historical returns are not constant or equal to some average. Ex. 363 p. 42.

- Historical measures fail to account for investors' flight to quality (and the resulting upward pressure on required returns for common stock). Ex. 363 pp. 42-43.

- Past trends are not expected to continue. Ex. 363 p. 12.

- Use of the geometric rather than arithmetic mean of a series of returns, creates an inherent downward bias in his results. Ex. 363 p. 44.

- To the extent historical growth rates are meaningful they are captured in analysts' growth estimates. Ex. 363 p. 13.

Dr. Woolridge's results themselves illustrate the flaws of basing a capital market method on historical measures. For example, applying Dr. Woolridge's historical growth measures in his DCF analysis yields a return of 6.7%, barely exceeding the average 6.5% yield on public utility bonds. Ex. 217; Ex. 363 p. 14. Similarly, basing a CAPM analysis on Dr. Woolridge's historical studies produces a cost of equity only 100 basis points above the yield investors can earn by investing in utility bonds. Ex. 363 p. 36. SFHHA's witness agreed that Dr. Woolridge's CAPM results are unacceptably low and should be disregarded. Tr. 2652 (Baudino).

SFHHA witness Baudino presented a DCF analysis with a range of 10.3% to 11.13%. *See* Tr. 2645-46 (Baudino); Ex. 284. As Dr. Avera pointed out in his testimony, Mr. Baudino:

- Based his analysis on Projected Dividends per Share ("DPS"). DPS growth measures contain a downward bias because of the conservative payout ratios for electric utilities. Ex. 363 p. 18; Ex. 283.

- Eliminated higher but not lower growth rates as outliers, skewing his results downward: Mr. Baudino eliminated growth rates that exceeded 10% as *per se* illogical but retained growth rates as low as 1%, producing skewed results. Tr. 2599 (Baudino); Ex. 363 p. 19.

The flaws in Mr. Baudino's analysis can be illustrated by the simple application of the DCF method to FPL Group using inputs from Mr. Baudino's exhibits. Inputting Mr. Baudino's estimated 3.64% six-month average dividend yield and 10% earnings growth estimate for FPL Group results in a 13.82% cost of equity, substantially above Mr. Baudino's. Tr. 2656-57 (Baudino); Exs. 282, 283. While Mr. Baudino contends that such a high cost of equity is

appropriate for FPL Group because it is substantially riskier than its regulated subsidiary, there is only a minimal spread between the beta values he assigns to FPL Group (.75) as compared to his proxy group (.69). Tr. 2647 (Baudino); Ex. 284.

Applying Mr. Baudino's DCF analysis, despite its flaws, to his proxy group supports up to an 11.13% cost of equity for FPL. *See* Tr. 2645-46 (Baudino). Nonetheless, Mr. Baudino chose to recommend a 10.4% ROE, which is at the very low end of his cost of equity range, because of his personal belief that FPL is a company with very low risk. *Id.* Such a position contradicts the overwhelming evidence of FPL's company-specific risks presented in this case. Thus, even if one were to accept Mr. Baudino's ROE range, which the record shows is too low, FPL's company-specific risks and challenges all support an ROE for FPL in the upper end of a cost of equity range. *See* Tr. 4803 (Avera).

5. Flotation Costs should be Recognized, Consistent with Commission Precedent.

Once analysts calculate and estimate comparable returns on equity using the above methods, they must account for flotation costs. When equity is raised through the sale of common stock, there are costs associated with selling or "floating" the new equity securities, but there is no established accounting mechanism for recognizing these costs. Tr. 4432-33 (Avera); Ex. 363 p. 56. Thus, unless some provision is made to recognize these issuance costs, a utility's revenue requirements will not fully reflect all costs incurred for the use of investors' funds. Tr. 4433 (Avera); Ex. 363 pp. 57, 61. Dr. Avera recommends that the Commission incorporate a 25 basis-point adjustment in determining a reasonable ROE range for FPL. Tr. 4434 (Avera). Such an adjustment would be consistent with other recent ROE determinations made by this Commission. *See, In re: Request for rate increase by Gulf Power Company,* Docket No. 010949-EI, Order No. PSC-02-0787-FOF-EI (June 10, 2002) (providing Gulf with a 20 basis-

point flotation cost adjustment); *see also, In re: Request for rate increase by Tampa Electric Company,* Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI, p. 44 (April 30, 2009) (stating that the Commission has traditionally recognized a reasonable adjustment for flotation costs on the order of 25 to 50 basis points).

Intervenors propose that the Commission disregard precedent, and suggest it would be appropriate to ignore flotation costs for several reasons. First, they claim that market-to-book ratios are above 1.0 for utilities and flotation costs are therefore unnecessary. But market-to-book ratios mean nothing for flotation costs – they do not alter the fact that a portion of capital contributed by equity investors is not available to earn a return because it is paid out as flotation costs. Next, they assert that flotation costs are not out of pocket expenses, but this assertion simply highlights the lack of any accounting convention to properly accumulate these legitimate and necessary costs, which cover both actual issuance costs as well as stock price impacts. Intervenors also claim that flotation costs are already accounted for in stock prices – an assertion directly contradicted by financial literature. Finally, they indicate that the lack of precise accounting for flotation costs is somehow fatal to the ability of a regulatory body to include them in a determination of ROE. It is common regulatory practice to apply an average flotation cost adjustment, which depends on the size and risk of the issue, to a utility's dividend yield. Tr. 4433-34 (Avera); Ex. 363 pp. 59-61. Accordingly, in order to ensure that investors have the opportunity to earn the expected return when investing in FPL, the Commission should adjust the ROE determined for FPL by 25 basis points for flotation costs.

6. Superior Performance

The Commission should take into account the fact that FPL's customers have benefited from efficient and cost-effective operations, excellent customer service, and low costs. Tr. 6564,

6611 (Reed); Tr. 3607, 3567 (Olivera). Considering these results in establishing FPL's ROE recognizes that FPL's superior management continues to be instrumental in achieving these results. Tr. 4380 (Avera); Ex. 363 pp. 62-63; Tr. 367-68 (Olivera). There is ample precedent for recognizing superior management performance in determining an appropriate ROE.[14] Recognizing FPL's superior management performance when setting an appropriate ROE is also consistent with the regulatory imperative of setting just and reasonable rates because it is:

- Consistent with statute: Florida Statute 366.041(a) provides the Commission with the authorization to "give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; [and]...the ability of the utility to improve such service and facilities" when setting rates. Tr. 6588 (Reed).

- Consistent with regulatory goals: the goal of regulation is to achieve the same result as that which would prevail in competitive markets. Ex. 363 p. 63.

- Consistent with competitive markets: in competitive markets, high-performing companies benefit from efficient operations by realizing higher rates of return for shareholders. Ex. 363 p. 63.

- Consistent with precedent: ROEs have reflected performance by this Commission[15] and Commissions in Louisiana, Iowa, New Mexico, Rhode Island, Virginia, Texas, and Utah. Tr. 4442 (Avera); Tr. 6601-05 (Reed).

The Commission should therefore recognize the efficient operations, excellent customer service, and moderate costs that have set FPL apart from the average utility in setting the Company's ROE. Tr. 4442 (Avera); Ex. 363 p. 63.

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[14] *In Re: Application of Gulf Power Company for Authority to Increase its Rates and Charges* (Docket No. 80001-EU; Order No. 9852) affirmed by *Gulf Power Company v. Cresse* (410 So. 2d 492) (Fla. 1982) (determining that 10 basis point increase in Gulf's ROE for conservation efforts was not an abuse of discretion); *In Re: Request for Rate Increase by Gulf Power Company* (Docket No. 010949-EI, Order No. PSC-02-0787-FOF-EI) (recognizing that Gulf deserved to have 25 basis points added to the midpoint return on equity of 11.75%), *LaSalle Tel. Co. v. Louisiana Pub. Serv. Comm'n*, 157 So. 2d 455 (La. 1963) (recognizing that the return allowance must, among other things, provide a reward for good management.)

[15] *Gulf Power Company v. Cresse*, 410 So. 2d 492 (Fla. 1982) (Florida Supreme Court affirms Commission's 10 basis point increase on Gulf's ROE for conservation efforts; Commission did not abuse its discretion).

E. Accumulated Deferred Income Taxes (Issues 64 and 133)

The appropriate amount of ADIT[16] that should be included in the capital structure on a jurisdictionally adjusted basis is $2,886,174,000 (originally filed as $2,723,327,000). Ex. 180 (MFR D-1a). For 2011, the jurisdictionally adjusted basis is $2,771,888,000 (originally filed as 2,655,102,000). *Id.* This amount includes a beneficial increase for customers in this zero cost source of capital of more than $288 million in 2010 and nearly $260 million in 2011 as a result of the positive impact of "bonus depreciation" made available by the American Recovery and Reinvestment Act of 2009 during the course of this proceeding. Tr. 3709 (Ousdahl); Ex. 358. This adjustment decreased 2010 and 2011 retail revenue requirements by more than $40 million and nearly $36 million, respectively, compared to FPL's initial filing in this proceeding. *Id.*

SFHHA witness Kollen claimed that the Commission should increase the amount of ADITs in the Company's capital structure by about $168 million. However, Mr. Kollen's claim should be rejected because it would result in making an improper double adjustment. Based on an incorrect reading of FPL's response to SFHHA's interrogatory 278, Mr. Kollen asserted that an adjustment is necessary to recognize temporary differences related to FIN 48 liabilities. Tr. 370 (Kollen). However, as explained in that interrogatory response, the total $168 million of ADITs associated with the temporary differences related to FIN 48 liabilities has already been fully included in FPL's capital structure. Tr. 3664 (Ousdahl). Accordingly, Mr. Kollen's claim

[16] ADITs represent the income tax component resulting from the application of the income tax rate to temporary differences at each balance sheet date. Deferred tax expense reflects the period-to-period change in ADITs. Because financial statements reflect accrual accounting, the income tax expense calculation must reflect the liability for income taxes payable in the future as a result of transactions recorded in the current financial statement. Deferred income taxes are included as a reduction to rate base or included as cost free capital in the capital structure for ratemaking purposes as customers pay income tax expenses in rates prior to the Company actually being required to make those payments to the U.S. Treasury. Recognizing zero cost deferred taxes in the capital structure, which is the FPSC's historical approach, reduces the overall rate of return charged to customers. *See, Petition for Rate Increase by Tampa Electric Company*, Docket No. 080317-EI, Order No. PSC-09-00293-FOF-EI; (2009), at p. 31.

would result in an improper double adjustment for the FIN 48-related amounts, and should be rejected.

Mr. Kollen also asserts that FPL improperly diluted the capital provided by customer deposits and ADITs because the Company did not allocate all pro-rata adjustments to investor-provided sources of capital. Tr. 3172 (Kollen). Mr. Kollen's claim should be rejected because his proposal would result in a double-counting of certain capital structure components (i.e., customer deposits and zero-cost deferred tax components, as well as investment tax credits). Tr. 3665 (Ousdahl). Additionally, his claim has previously been rejected by this Commission. Tr. 3665 (Ousdahl); Ex. 353. While Mr. Kollen suggests that customer deposits and accumulated deferred income taxes are not used to fund the rate base items adjusted out on MFR D-1b, (*See* Tr. 3172 (Kollen)), Mr. Kollen's adjustment is clearly incorrect. Rather, FPL funds its assets and operations from a pool of funds from all sources, including customer deposits, deferred taxes and tax credits. The fact that FPL funds its rate base from all sources of capital was specifically recognized by this Commission in FPL's last fully litigated rate case. *See* Order on Reconsideration No. 13948, Docket No. 830465-EI; Tr. 3665, 4005-07 (Ousdahl); Ex. 353.

FPL's position on capital structure adjustments for ADITs is consistent with tax normalization rules, the Commission's recent order in the TECO rate case,[17] as well as in Order on Reconsideration No. 13948. Mr. Kollen's recommendation is not. Tr. 3668 (Ousdahl). Accordingly, the Commission should approve FPL's proposed amount of ADIT in FPL's capital structure.

[17] *Petition for Rate Increase by Tampa Electric Company*, Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI (2009).

F. Weighted Average Cost of Capital (Issue 81)

Prior to the adjustments listed on FPL witness Ousdahl's Exhibit 358, FPL's weighted average cost of capital would have been a very reasonable 8.00% for 2010 and 8.18% for 2011. Tr. 3624-25 (Ousdahl). With the additional adjustments, FPL's weighted average cost of capital is even lower, at 7.85% and 8.06% for 2010 and 2011, respectively. It is evident that FPL's commitment to financial strength allows the Company to obtain a very low cost of borrowing that, taken with FPL's recommended 12.5% ROE and recommended capital structure, results in a very low rate of return request. In fact, this rate of return is lower than that recently approved for TECO. *See* Analysis of FPL's Cost of Capital Versus TECO's Cost of Capital, Ex. 512.

G. Cost of Capital Summary

In sum, FPL's requested ROE of 12.5% is fully supported by the evidence presented in this proceeding. First, it recognizes the unique risks faced by FPL and recognized by investors, several of which are not shared by other utilities in this state. Secondly, it is supported by the ROE analyses conducted by Dr. Avera that lay the foundation for a 12%-13% ROE range. FPL's requested ROE represents the midpoint of Dr. Avera's cost of equity range. Tr. 4822 (Pimentel); Tr. 210-11 (Olivera). Third, it accounts for flotation costs – costs which are actually incurred by the utility and historically approved by this Commission. And finally, the requested ROE would appropriately recognize FPL's superior management performance which will continue to benefit customers. An adequate ROE is essential to retain the confidence of the investment community – which confidence in turn will benefit FPL's customers by supporting FPL's financial strength and its continued capability to provide cost-effective utility service. Customers will pay more if that confidence is lost. Tr. 5037-38, 5393-94 (Pimentel).

As explained by Dr. Avera, "customers have a lot to lose" if the Commission's order is not supportive of FPL's continued financial strength. Tr. 4805 (Avera). Such an unsupportive order would "increase the cost for FPL to borrow money, to enter into contracts, to provide service, to retain services, to respond to hurricanes and other challenges." Tr. 4806 (Avera). In the long run, customers will pay more if FPL loses the confidence of the investment community. Tr. 4806 (Avera); 5037-38, 5393 (Pimentel). For customers to continue to realize the benefits of FPL's low cost, clean, efficient, and reliable service, the Commission should provide FPL with the opportunity to earn a fair return on its investment and maintain a strong capital structure.

VIII. DEPRECIATION AND FOSSIL DISMANTLEMENT

FPL included its currently approved depreciation rates and dismantlement accrual in its forecast for the 2010 Test Year and 2011 Subsequent Year, and made company adjustments to those years to reflect changes based on its 2009 depreciation and dismantlement studies. FPL's depreciation and fossil dismantlement studies have been conducted consistent with Commission rules and policies. Importantly, FPL's studies are consistent with industry ranges but also based on FPL-specific data. FPL has also included capital recovery schedules for certain assets that are anticipated to be retired within a relatively short period of time, consistent with previous Commission practice and Rule 25-6.0436(10)(a), Fla. Admin. Code.

The intervenors' approaches to depreciation lack the precision that results from incorporation of Company-specific knowledge about the assets in question, and their approaches also disregard industry-approved methodologies. Tr. 2760, 2765 (Clarke). OPC witness Pous, FIPUG witness Pollock, and SFHHA witness Kollen all made specific recommendations on depreciation, but none met with any Company personnel or examined any of FPL's production plants. *See* Tr. 2765 (Clarke); Tr. 3030-32 (Pollock). Rather, intervenors made generic

recommendations which were biased toward increasing service lives and decreasing net salvage percentages, with the obvious goal of decreasing depreciation expense. *Id.* Acceptance of intervenors' proposals would significantly understate FPL's true depreciation and fossil dismantlement requirements. Additionally, SFHHA and FIPUG both recommend alternatives to FPL's use of capital recovery schedules without presenting any evidence to support deviating from the clear requirements of the applicable Rule.

Based upon FPL's depreciation study, a theoretical reserve surplus of $1.245 billion presently exists. Theoretical reserve surpluses or deficits are not uncommon, and the Commission has typically relied on the remaining life method in addressing such imbalances. *See* Tr. 6673-74, 6739 (Deason). Concerns regarding generational inequities are tempered by the fact that current customers have not been "charged" the depreciation rates which caused the surplus (base rates have not increased during the last 20 years) and because annual revenue requirements are $216 million lower than they would otherwise be without the theoretical reserve surplus. Tr. 6403, 6414 (Davis); *see also* Tr. 4971-72 (Pimentel). Moreover, the intervenors' recommended rapid amortization of the surplus would cause – rather than correct – intergenerational inequities by leading to unavoidable rate increases of up to $478 million for future customers. *See* Tr. 6400 (Davis); Ex. 360. Finally, it is important to recognize that intervenors' stated preference to cut rates now and then pay more later is illogical during a period of time when bills will be going down in the near term in any event. As discussed below, intervenors' proposals are counterproductive to protecting customers' best interests.

A. FPL's Depreciation Study Should be Approved (Issues 19B-19D, 130-131)

The purpose of the Commission's periodic depreciation reviews is to determine appropriate depreciation rates on a going-forward basis. Tr. 6724 (Deason). FPL engaged the

services of C. Richard Clarke of Gannett Fleming, Inc., to conduct a new depreciation study. Ex. 115. Mr. Clarke used the straight line method of depreciation, which seeks to distribute the unrecovered cost of fixed capital assets over the estimated remaining useful life of each unit or group of assets in a systematic and rational manner. Tr. 2740 (Clarke). This approach is consistent with the methodology used in FPL's last depreciation study and follows the rules of depreciation prescribed by the Commission. Tr. 2741 (Clarke). Overall, FPL's annual depreciation expense as presented by the Company and supported by Mr. Clarke, shows a decrease by approximately $8.8 million when comparing approved rates to proposed rates as of December 31, 2009, if one excludes the effect of the $500 million accumulated depreciation reserve credit ($125 million per year) that was part of the settlement of FPL's last base rate proceeding. Tr. 2755 (Clarke). These facts support the reasonableness of FPL's depreciation study and directly counter OPC's assertion that utilities favor higher depreciation expense. *See* Tr. 1806 (Pous).

Production Plant Lives: An important input to the depreciation study analysis is the estimated service life of each unit or group of assets. Incorporated within FPL's depreciation study are reasonable service lives for each of FPL's plants. The current 25, 35, and 40 year life expectations are appropriate for FPL's advanced combined cycle units, large oil and gas-fired steam units, and coal-fired steam units, respectively. Tr. 6263, 6277 (Hardy). These life expectations are based on engineered plant design lives, FPL's detailed engineering knowledge of the actual condition and operation of its units, FPL's distinctive outdoor, coastal, subtropical operating environment, and the operating characteristics (base load versus cycling) of the FPL fossil fleet. *Id.* When compared with the average life of industry generating units at retirement, FPL's asset life expectations are reasonable. Tr. 6263 (Hardy).

The 25-year expected life of FPL's combined cycle units is based on the engineered plant design life and the units' heavy cycling. Tr. 6266 (Hardy). The physical life of the combustion turbine is estimated to be 25 years by the manufacturer when cycled extensively. *Id.* FPL's actual and anticipated usage of the asset, in combination with its unique operating experience of these types of units demonstrate that these units are cycled extensively. Tr. 6306-08 (Hardy). Indeed, FPL has "more operating experience with this technology than anyone else in the world[.]" Tr. 6306 (Hardy). While a manufacturer's maintenance "considerations" can be a useful guideline in determining maintenance intervals, it is ultimately the responsibility of the owner to understand its equipment, to understand the environment in which the equipment operates and to manage its assets based upon operating experience. Tr. 6306-09 (Hardy). In fact, due to FPL's operational experience, manufacturers often seek FPL's participation when analyzing maintenance and operational issues associated with this advanced technology. Tr. 6307-08 (Hardy).

Further, FPL does not anticipate that baseload growth from an economic recovery will reduce the amount of cycling that takes place. Tr. 6298 (Hardy). FPL will continue to have high "peaks" and low "valleys" given its largely residential customer base and the seasonal characteristics of South Florida. *See* Tr. 6296-97 (Hardy). Cycling these units enables FPL to "shape" the operation of its generation. FPL will continue to match its generation very closely with load, which keeps fuel costs low for customers. Tr. 6296-98 (Hardy).

The large gas-fired units at Martin and Manatee have a 35 year asset life because these units are also heavily cycled. Tr. 6267 (Hardy). It is appropriate to re-task these plants from baseload to cycling units because it permits customers to receive the fuel efficiency and environmental benefits of FPL's cleaner and more modern units, contributing to FPL's overall

low cost of generation and excellent environmental performance. *Id.* Also, it is important to note that FPL has already retired six mid-sized cycling oil and gas-fired units at 33 years of life for economic repowering benefits, further supporting an estimated 35 year life for FPL. Tr. 6267 (Hardy).

With respect to FPL's coal units, 40 years remains a reasonable asset life due to original design expectations, and also takes into account the potential effect of future environmental regulations on coal technology. Tr. 6268 (Hardy). Such regulations will tend to make the plant lives shorter than if such regulations are not enacted. *Id.* A particular plant owner's response to environmental regulation is a good example of how similar plants in similar locations with similar operating and maintenance characteristics reasonably may have different lives for different owners. Further, it would be inappropriate to establish asset lives that are greater than their design lives because extending plant life beyond the design life requires "unknown levels and timing of capital additions." Tr. 6270 (Hardy). To assume that the business climate will support investments in this type of technology 30 and 40 years in the future is a reckless assumption. Tr. 6385 (Hardy).

To evaluate the reasonableness of FPL's service lives, Mr. Clarke made field visits to FPL property to physically observe various types of FPL facilities, and conducted meetings and field reviews to become familiar with Company operations and obtain an understanding of the function of FPL's plants. Tr. 2742, 2763 (Clarke). FPL also provided Mr. Clarke with information regarding past retirements, and the expected future causes of retirements. *Id.* These service lives were then compared to life spans used by Gannett Fleming and elsewhere in the industry for reasonableness, and were determined to be within the industry range typically seen. Tr. 2764 (Clarke).

OPC and FIPUG proposed to extend the service lives for certain of FPL's generating units. Tr. 1852-54 (Pous); Tr. 2943 (Pollock). SFHHA also recommends that the service life for combined cycle plants be extended. Tr. 3161 (Kollen). These recommendations were based on broad industry reviews and sweeping generalizations. Similar units in other parts of the nation, and even similar units in other parts of Florida, could have very different operating characteristics or environmental considerations and provide an inappropriate basis for comparison. *See* Tr. 6388-89 (Hardy). For example, the atmospheric chloride levels near the coast of Florida are different – and affect plants differently – than atmospheric conditions inland. *Id.* Looking at proposed plants that do not yet exist would also be a futile effort. *See* Tr. 6382-83 (Hardy); Ex. 533.

OPC's and FIPUG's witnesses fail to recognize the consequences of extending service lives beyond the actual expected service lives for purposes of calculating the depreciation rates. Extending the lives of these units could create stranded investment if they become uneconomical to operate. Tr. 6408-09 (Davis). For example, climate change legislation could adversely affect the economics of coal-fired plants and less efficient oil-fired plants. The U.S. Environmental Protection Agency Office of Atmospheric Programs has modeled the potential impact of HR 2454, one piece of climate change legislation, on retirements of existing capacity. Its modeling shows an increase in coal unit retirements through 2025 from 5 GW to 27 GW if the bill were enacted, and an increase in oil and gas unit retirements from approximately 15 GW to 65 GW. Tr. 2003-04 (Pous). Mr. Pous agreed that there was significant uncertainty surrounding the implications of climate change legislation on the economics of the continued operation of coal, oil, and gas fired units. Tr. 2006 (Pous). Indeed, FPL's determination of need for the FPL Glades Power Park was denied in part due to the uncertainty surrounding environmental

legislation. *See* Order No. PSC-07-0557-FOF-EI, p. 4. These possibilities must be considered in evaluating the appropriate lives of such generating facilities. Tr. 6408 (Davis).

Ultimately, one must look at the manner in which FPL utilizes generating technology as the basis for proper service life determinations. The decisions FPL has made and the manner in which FPL utilizes generating technology have resulted in substantial customer benefits, including non-fuel O&M expenses that are $400 million per year lower than the industry average, and significant emission reductions and fuel-use reductions that resulted in $500 million in fuel cost savings for customers during 2007 alone. Tr. 6276 (Hardy).

Interim Retirements and Net Salvage: FPL appropriately quantified the level of interim retirements using an Iowa Curve with a distinct retirement dispersion pattern that matches the type of property in each plant account. This method is widely accepted for use with life span property such as generating units, it takes into account the property will be retired at different ages, and it is more accurate as compared to using a flat, constant retirement rate – which is the method recommended by Mr. Pous. Tr. 2775-85 (Clarke). Mr. Pous also makes changes to the net salvage values affecting interim retirements which are similarly inappropriate, as explained in detail by Mr. Clarke. Tr. 2788-96 (Clarke).

Mass Property Lives and Net Salvage: A statistical analysis of Company data was performed by Mr. Clarke. Exposures and retirements were reviewed by account by age, and a survivor ratio and ultimately a survivor curve was then developed. Tr. 2797 (Clarke). These survivor curves were then compared to the Iowa Curves, which were developed in the industry through an extensive process of observation and classification of the ages at which industrial property retires. *Id.* These Iowa Curves are used and accepted throughout the industry. *Id.* Gannett Fleming, Inc. uses a combination of visual curve fitting and mathematical curve

matching to develop the "best" fitting curve. Tr. 2798 (Clarke). Mr. Pous recommended adjustments to several of FPL's mass property accounts based on visual curve fitting only, and then attempted to justify his adjustments by referring to industry averages. Tr. 2799 (Clarke). Industry averages are of limited use, as average service lives vary from company to company. Tr. 2801 (Clarke). Each of Mr. Pous's specific recommendations was shown to be unreasonable by Mr. Clarke. Tr. 2802-11 (Clarke).

With respect to Net Salvage for Mass Property accounts, Gannett Fleming, Inc. reviewed net salvage data from 1986-2007, confirmed the data with FPL personnel, rejected abnormal data that was not explained, looked at various trends and bands of years, incorporated information gained from personnel interviews, and compared its results to the industry – which demonstrated that the Company's estimates were well within the industry range. Tr. 2814 (Clarke). Mr. Pous's specific recommendations for Mass Property Net Salvage were similarly refuted by Mr. Clarke. Tr. 2816-29 (Clarke).

Other Intervenor Errors: In addition to all of the above, Mr. Pous calculated his proposed annual depreciation expense incorrectly by failing to take into account the impact of his proposed accelerated amortization of the theoretical reserve surplus. Tr. 2761 (Clarke). His calculated rates do not reflect the fact that, based on his proposed accelerated amortization, credits implemented now will increase the balances that will have to be depreciated. That means FPL would have to collect an additional $1.25 billion through depreciation rates in the future. *Id.* For all the foregoing reasons, the depreciation expense recommendations of witnesses Pous, Pollock, and Kollen are unreasonable.

B. FPL's Proposed Treatment of the Theoretical Reserve is the Best Choice for Customers (Issues 19E and 19F)

Based upon FPL's depreciation study, there currently exists a theoretical reserve surplus of $1.245 billion.[18] A theoretical depreciation reserve represents a "snapshot" look at where the accumulated provision for depreciation would be at a specific point in time, based on specific assumptions about the future, compared to the accumulated depreciation actually reflected in the Company's books and records. The difference is a theoretical reserve surplus or deficit. Tr. 6401-02 (Davis). It is "theoretical" because it is not based upon actual booked amounts of accumulated depreciation and the corresponding actual depreciation rates that have been ordered by the Commission. Tr. 6673 (Deason). It is simply an estimate, based upon what is believed to be the current parameters of asset lives and salvage values, compared to actual booked amounts. *Id.*

Theoretical reserve surpluses and deficits are not uncommon. Tr. 6672-73 (Deason). The reserve surplus or deficit will change every time new depreciation rates are computed, reflecting changes in the perception of the future based on current depreciation parameters. Tr. 6402 (Davis). The fact that a theoretical surplus exists does not indicate that customers have been charged too much. All it indicates is that assumptions have changed. *Id.* For example, FPL's receipt of NRC approval to extend the operating licenses for its nuclear units extended the lives of those units, which would itself cause a depreciation reserve surplus for those units. *See* Tr. 6431-32 (Davis). FPL will continue to make significant capital expenditures to maintain and

[18] OPC witness Pous disputes the amount of the theoretical depreciation reserve surplus, and suggests the existence of a $2.75 billion surplus. As described by FPL witness Clarke and in Section VIII.A of this brief, Mr. Pous's adjustments are incorrect and should be rejected. In any event, Mr. Pous has not suggested that the Commission take any action with respect to the reserve amount in dispute. Accordingly, there is no record evidence that would support any action on his estimated surplus.

improve these units, yet none of these future costs are considered in determining the theoretical reserve.

The Commission should continue its long-standing reliance on the remaining life depreciation methodology to address the theoretical reserve. The Commission has consistently approved the application of the remaining life method for FPL in Docket Nos. 910081-EI, 931231-EI, 971660-EI, and 050188-EI. Tr. 6413-14 (Davis). The existence of any reserve surplus over the remaining useful life of the assets will continue to benefit customers by reducing revenue requirements while also providing a hedge against uncertainties, such as early asset retirements due to events like hurricanes, technology changes, and climate legislation. Tr. 6403 (Davis).

Various intervenors in this case attempted to present support for a quicker amortization of the theoretical reserve surplus to reduce near term expenses for customers. In doing so, they paint an incomplete and misleading picture for the Commission, highlighting the near-term reduced expenses that would result from an accelerated four or five year amortization of the theoretical surplus and completely ignoring the consequences. While a near-term reduction to depreciation expense may be tempting, three very specific consequences must be taken into account: (i) rate base would increase, on which customers would have to pay a return; (ii) less cash revenue would be collected, forcing FPL to go to the market to raise more debt and more equity; and (iii) quality of earnings would deteriorate. Tr. 4968-70 (Pimentel). Additionally, it increases the risk of stranded costs from premature retirements. *See* Tr. 6408-09 (Davis).

Longer-term significant and measurable revenue deficiencies would directly result when the accelerated amortization of the theoretical reserve, as proposed by each of the intervenors, ceases. *See* Tr. 6398 (Davis). These required rate increases would significantly exceed the total

short term savings recommended by the intervenor witnesses. *Id.* Indeed, the current interest in the theoretical reserve appears to have more to do with reducing rates in the short term – at any future cost – than with appropriate depreciation accounting. Specifically, without even accounting for the increased rate base which would need to be depreciated, each intervenor's recommendation would lead to rate shock in the future as follows:

- OPC witness Pous: a $233 million rate reduction in 2010 and a **$399 million rate increase** in 2014;
- FIPUG witness Pollock: a $125 million rate reduction in 2010 and a **$234 million rate increase** in 2014; and
- SFHHA witness Kollen: a $249 million rate reduction in 2010 and a **$415 million rate increase** in 2015.

Tr. 6400 (Davis); Ex. 360. OPC witness Pous admitted that this rate shock is the inevitable, mathematical result of amortizing the reserve surplus over a short period of years and increasing FPL's rate base commensurately. Tr. 2007-08 (Pous). To illustrate this point, approximately $300 million (or 31%) of FPL's current base rate increase request is due to the $125 million annual credit which has been booked pursuant to its previous rate case stipulation. Tr. 6471 (Davis).

Intervenors focused on the concept of "intergenerational inequities" during the course of the hearing. First and foremost, it is important to note that the existence of a theoretical reserve surplus or deficit does not in and of itself mean that customers have been overcharged or undercharged. Tr. 6754-55 (Deason). This is particularly true in FPL's case. With respect to FPL's current customers, it is important to recognize that at no time during which the theoretical surplus accumulated did FPL increase base rates. Tr. 6404-05 (Davis). In fact, rates were decreased by $350 million in 1999 and by another $250 million in 2002. Tr. 6404-05, 6546 (Davis). As a result, today's rates are $600 million lower than they otherwise would have been

without these decreases. Accordingly, there were no incremental rates paid by current customers which now warrant an accelerated amortization to "pay them back." Additionally, the existence of a theoretical reserve surplus lowers rate base and depreciation expense for current customers. FPL's annual revenue requirements are $216 million lower than they otherwise would be if the reserve surplus did not exist. Tr. 6403 (Davis); *see also* Tr. 4971 (Pimentel).

The intervenors' recommendations would create, rather than correct, any alleged intergenerational inequities. A rapid amortization would create an artificial four-year benefit for current customers and require current and future customers in future periods to pay significantly higher costs solely as a result of that rapid amortization. Tr. 6404 (Davis). With intervenors' proposals, future customers will be paying more than they otherwise would be without the near-term credit. They will also be paying more for assets with diminished beneficial value. Tr. 6466 (Davis). These facts significantly weaken the value of the generational inequity arguments put forth by intervenors.

Finally, it is important to also note that each and every Commission order cited as "precedent" or "support" by intervenors in favor of accelerated depreciation is not applicable to the circumstances of FPL's theoretical reserve surplus. *See* Tr. 6421-26 (Davis). Only in unique factual circumstances, and often outside the parameters of a base rate proceeding, has the Commission deviated from the remaining life method. *See* Tr. 6725 (Deason). For example, in the 1990s, to position the Company for potential deregulation and competition, the Commission allowed FPL to relieve its customers of the burden of potential stranded investment (that customers were facing in other jurisdictions) using accruals which were revenue based. Although this method deviated from pure remaining life depreciation, the Commission and the Company were faced with an extraordinary situation. Tr. 6731-32 (Deason). As a result of a

settlement agreement in Docket No. 001148-EI, the Commission allowed for the recording of an optional depreciation credit of up to $125 million per year for the period of the agreement. The need for the depreciation credit at that time was caused by the previous deviation from the remaining life method by the Commission. Tr. 6736-38 (Deason). Customer rates, however, remained unchanged. *Id.*

OPC requested that the Commission take official recognition of numerous orders on depreciation, many of which address accelerated amortization of depreciation reserve deficits and surpluses, purportedly in support of its position. Upon close review, however, these orders demonstrate that, while the Commission has repeatedly ordered a rapid amortization for *known past retirements*, it has adhered consistently to the remaining life approach for *prospective retirements*. *See, e.g.,* Order No. 12290; Order No. 13495; Order No. 13528. FPL's position in this docket precisely tracks that distinction. FPL is proposing to use capital recovery schedules amortize rapidly the depreciation deficits associated with known retirements of assets when they are replaced or upgraded well before the end of their otherwise useful lives; and FPL is proposing to use the remaining life method to address the theoretical reserve surplus that applies to prospective future retirements.

Commission practice supports use of the remaining life method. There are three broad principles that the Commission has historically relied upon when setting depreciation rates to reach reasonable results. Tr. 6676 (Deason). First, the Commission has used the principle of matching costs and benefits. Second, the Commission has historically made decisions to protect customers for the long term. Third, the Commission has maintained a separation between the setting of depreciation rates and their immediate impacts on electric rates. *Id.* In other words, the Commission has not allowed impacts on electric rates to be the primary driver in setting

depreciation rates. This has the advantage of promoting greater objectivity in setting depreciation rates. *Id.* The temptation to have depreciation rates set according to their impacts on base rates, and not the consistent application of generally accepted depreciation practices, should be avoided. Tr. 6677 (Deason). In light of the certainty of future rate increases and the illusory nature of the intervenors' intergenerational inequity arguments, there is no compelling reason to depart from this Commission's established principles – especially during a time when bills are going down.

C. The Use of Capital Recovery Schedules is Appropriate (Issue 19A)

FPL presented evidence supporting the appropriate depreciation expense to incur through capital recovery schedules for certain assets: (i) the early retirement of the Cape Canaveral and Riviera power plants; (ii) the assets scheduled to be retired due to the nuclear uprate projects; and (iii) the meters retired or scheduled to be retired due to the AMI project. Use of capital recovery schedules for certain assets that are anticipated to be retired over a relatively short period of time is consistent with previous Commission practice and the Florida Administrative Code. Tr. 6415 (Davis). Rule 25-6.0436(10)(a) states that, "prior to the date of retirement of major installations, the Commission ***shall*** approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process." (emph. added). No intervenor has presented evidence or even attempted to demonstrate that (1) the repowering projects, the nuclear plant uprate projects, or the AMI project are imprudent; or (2) that the associated investment will be recovered by the time of retirement. Thus, FPL is entitled pursuant to the rule to utilize capital recovery schedules for those projects.

SFHHA and FIPUG both recommend unnecessary and inappropriate alternatives. SFHHA witness Kollen suggests that the Commission should (i) add the remaining net book value of the Cape Canaveral and Riviera facilities to the modernized units for continued depreciation over the lives of those units; (ii) add the remaining net book value of the retired nuclear assets to the uprated units for continued depreciation over the lives of the uprated units; and (iii) use the same depreciation rate for retired meter investment as that which is adopted for meter investment not included in the AMI project. *See* Tr. 3157-59 (Kollen); Tr. 6417-19 (Davis). Mr. Kollen's recommendations would violate both Generally Accepted Accounting Principles ("GAAP") and the Uniform System of Accounts ("USOA"). Tr. 6417-19 (Davis). The Company's capital recovery schedules, on the other hand, comply with GAAP and the USOA, are consistent with the Commission's rule on depreciation, and are consistent with the Commission's precedent addressing large interim retirements.

Mr. Pous, on behalf of OPC, and Mr. Pollock, on behalf of FIPUG, suggest that FPL should charge the unrecovered investment in these assets to the theoretical reserve surplus, eliminating the capital recovery expense and reducing the theoretical surplus. No compelling evidence was provided to support ignoring Rule 25-6.0436(10)(a), Fla. Admin. Code, in favor of such an approach. Nonetheless, if the Commission were to determine as a policy matter that some immediate reduction to the theoretical reserve surplus was desirable, this would be one option available to the Commission to achieve such a reduction. If done, this would have the effect of immediately reducing the theoretical reserve surplus by $314 million and reducing FPL's revenue requirement by approximately $58.6 million in 2010 and $50.6 million in 2011. Witness Deason pointed to this option as a "middle ground" between FPL's position on the

theoretical reserve surplus and the intervenors' proposals for rapid amortization. Tr. 6807 (Deason).

D. FPL's Fossil Dismantlement Study Should be Approved (Issues 40-44, 121)

On March 17, 2009, FPL filed a current fossil dismantlement study with the Commission. That study supports a $5.8 million net increase to FPL's currently-approved fossil dismantlement accrual. Tr. 3636 (Ousdahl). FPL's study was essentially unchallenged by any intervenor, although, as discussed below, OPC witness Pous and FIPUG witness Pollock addressed it briefly and superficially.

There are three primary drivers of the increase: (i) the addition of the West County Units since the last dismantlement study was prepared; (ii) increased labor rates caused by the increase in the equipment component of the labor rates; and (iii) increased fuel oil tank removal costs due to an increased demand in fuel oil tank cleaning services and higher transportation costs for the disposal of contaminated materials. Tr. 3636-37 (Ousdahl); Ex. 124. FPL conservatively chose not to reflect the currently depressed market values for salvage, which would have driven the accrual higher. *Id.*

OPC witness Pous claimed that FPL used reverse construction as its assumed method of dismantlement, which is more costly. Tr. 1883-84 (Pous). This is a mischaracterization of FPL's study. FPL assumed total demolition using heavy equipment and employing the most efficient methods possible. Tr. 3670 (Ousdahl). FPL's study includes the use of explosive demolition – as advocated by Mr. Pous – where appropriate. Tr. 3671 (Ousdahl). For example, FPL's study assumes the use of controlled blasting for chimneys, which is discussed by Mr. Pous as an example of low-cost dismantlement. Tr. 3671 (Ousdahl); *see* Tr. 1883-84 (Pous). However, it is not always appropriate to use explosives, given a particular plant's location

relative to commercial structures or environmentally sensitive areas. Tr. 3671 (Ousdahl). FPL's crew mix and productivity factors were independently developed and are reasonable. Tr. 3673 (Ousdahl). Finally, FPL's consistent use of a 16% contingency factor and assumed return to Greenfield status are consistent with past Commission decisions and direction and were shown to be reasonable. Tr. 3673-74 (Ousdahl).

Ultimately, Mr. Pous's recommendation that FPL reduce its accrual by 60% hinged on a reference to a Nevada Power Company dismantlement study that has no relevance to this proceeding. Tr. 3676-77 (Ousdahl). In fact, Mr. Pous admitted that he has no legitimate reason to dispute FPL's fossil dismantlement findings. Tr. 2013 (Pous). Accordingly, Mr. Pous's recommendation should be rejected. Mr. Pous's additional recommendation that the Commission order the Company to conduct an additional dismantlement study is simply unnecessary. FPL's fossil dismantlement studies are very detailed and based on reasonable assumptions. Tr. 3674, 3676 (Ousdahl).

Mr. Pollock, witness for FIPUG, recommended that FPL's fossil dismantlement accrual be suspended but provided no rationale or basis for doing so. Tr. 2950 (Pollock). Such a recommendation is unreasonable. The arbitrary elimination of the fossil dismantlement accrual would likely result in a higher cost to customers in the future, as the accrual would need to be increased to make up for the future, unnecessary shortfall. Tr. 3677-78 (Ousdahl).

The reasonableness of the Company's dismantlement estimates can be demonstrated by comparing past estimates to actual costs. For example, FPL estimated it would cost $8.9 million to dismantle Units 4 and 5 at its Ft. Lauderdale site in 1992, and the actual cost to dismantle the units for repowering was $9.8 million. Tr. 3672 (Ousdahl). Similarly, FPL estimated it would cost $14.7 million to dismantle its Ft. Myers Units 1 and 2, and the actual cost for *partial*

should authorize FPL's request for a storm damage accrual of approximately $150 million per year, with a target reserve level of $650 million.

A. FPL's Annual Accrual Amount Will Limit Reserve Growth

Consistent with Commission policy, the annual accrual should be set large enough to allow the reserve to build modestly in years of normal hurricane activity, yet low enough to prevent unbounded growth. Tr. 4857, 4863 (Pimentel); *see* Order No. 95-0264-FOF-EI. FPL commissioned a detailed loss analysis by catastrophic risk management expert Mr. Steven Harris, which provides the basis for FPL's requested annual accrual of $150 million. Tr. 4863-64, 4911 (Pimentel). This level of annual accrual limits the potential for unbounded growth in the reserve and ensures an adequate level of liquidity to cover reasonable storm restoration costs on a yearly basis. Tr. 4866-67, 4910-11 (Pimentel).

To address the Commission's concern for unbounded growth, Mr. Harris conducted probability analyses to determine the likelihood that after five years the reserve could exceed the recommended $650 million level.[20] Tr. 3493 (Harris); Tr. 4866, 4914, 5342-43 (Pimentel). Mr. Harris' results show that it is unlikely that the reserve would exceed the requested level. Tr. 3493 (Harris); Tr. 4867, 5343 (Pimentel); Ex. 127. However, because FPL cannot change its storm fund accrual without Commission authorization, the Company also suggests the Commission allow for a study every five years to ensure that this level of annual accrual remains adequate in light of then-current conditions. Tr. 4867-68 (Pimentel).

[20] Several inputs were required for the probability model to function, including an assumption that adequate funds would be available to cover all storm costs from external sources. Mr. Harris assumed an unlimited 4% line of credit for purposes of the model, which in no way reflects an actual financing vehicle available to FPL. Tr. 5329-30 (Pimentel).

dismantlement was $12.9 million – or 88% of the *full* dismantlement estimate. *Id.* These recent experiences demonstrate the reasonableness of FPL's estimates. Accordingly, FPL's fossil dismantlement study and fossil dismantlement adjustment should be approved.

IX. STORM ACCRUAL AND STORM RESERVE (ISSUE 120)

Storm restoration costs are part of the cost of providing electric service in hurricane-prone Florida. FPL's risks for costly storm damage are significantly heightened by its predominantly coastal service territory and high concentration of transmission and distribution assets in the counties with historically high hurricane strikes. Tr. 3507-08 (Harris); Ex. 128. Unfortunately, insurance for losses to FPL's transmission and distribution system is not available at a reasonable cost. Tr. 4859, 5291-92, 5350 (Pimentel). And although FPL has access to a credit facility, it is utilized for a variety of operational credit requirements, limiting its availability for hurricane restoration costs. Tr. 5240-41 (Pimentel).

Prior to the 2005 rate case settlement, FPL was authorized to fund its storm reserve[19] for storm and other property-related losses through an annual accrual. Tr. 4856-57 (Pimentel). The revenue requirements associated with re-instituting such an accrual are included in this base rate increase request. The Commission's policy of determining an annual accrual and reserve balance sufficient to protect against most years' storm restoration costs, but not the most extreme years, has proved effective and decreases the Company's dependence on relief mechanisms such as special assessments, which increase volatility in customer bills. Tr. 4857-58 (Pimentel). The Commission also recognized the need for an annual accrual in its recent decision in the TECO rate case, wherein the Commission approved an annual accrual and a target reserve level of $64 million for TECO. As described below, given FPL's higher exposure to storms, FPL's requested reserve level is proportional to what TECO was recently awarded. Accordingly, the Commission

[19] Account 228.1 –Accumulated Provision for Property Insurance

B. Intervenors' Positions Would Increase Volatility in Customer Bills

SFHHA witness Kollen and OPC witness Brown take a short-term view, disregarding the very real impact of their recommendations on customer bills, by asserting that FPL should exclusively use the storm securitization or surcharge mechanisms. Tr. 3146-47 (Kollen); Tr. 2470-71 (Brown). While intervenors' suggested approach would avoid a small rate base charge in the short term, over the longer term, customers would very likely experience shocks to their bills in the event of a storm. Tr. 5343-44, 5346 (Pimentel). Importantly, the intervenors' positions would place an additional cost burden on customers when they may already be incurring costs to repair their homes from storm damage and subject FPL and its customers to prevailing market conditions. While the Company's strong financial position gives FPL leverage in accessing the market, this leverage does not guarantee FPL access to the market. Tr. 5347 (Pimentel). FPL's access to low securitization costs in the past does not guarantee such access to low securitization costs in the future, especially in light of the current volatile and constrained credit markets. Tr. 4915, 5129-32 (Pimentel). As revealed in Mr. Harris' analysis, even with FPL's requested annual accrual, there is a 33% chance the requested reserve would be insufficient at some point over the next five years to fund storm restoration costs. Tr. 4914, 5343 (Pimentel).

Relying exclusively on securitization and surcharge mechanisms for storm recovery costs is a short-sighted approach that would likely harm customers. Tr. 4912 (Pimentel). Ms. Brown conceded that the current reserve level is not sufficient to cover the cost of a major storm, making the possibility of another surcharge very real. Tr. 2504-05 (Brown). For securitization, the process of obtaining a financing order and issuing securitized bonds takes a significant amount of time. Clearly, it is not a source of readily available liquidity. *See* Tr. 4914-15

(Pimentel). In contrast, the accrual and reserve approach is the most cost-effective means to ensure critical funds are available when needed, provide stability in customer bills and thus minimize the overall financial impact of hurricanes in FPL's service territory. Tr. 4863, 4912 (Pimentel).

Not only is the accrual and reserve *approach* appropriate, but the *amount* requested by FPL is appropriate. The Commission's recent decision on this topic in TECO's rate case is illustrative. FPL is about seven times the size of TECO and, with a large portion of its service territory in the southeastern-most part of the state, has about ten times the loss exposure to hurricanes that TECO has. Tr. 3547-48 (Harris). Consistent with this difference in risk exposure, TECO currently has about $22 million in its reserve to cover storm losses and FPL has about $200 million in its reserve to cover storm losses (about ten times the TECO amount). Tr. 3548 (Harris). In this proceeding, FPL is proposing a $650 target reserve level, which is approximately ten times the reserve level ($64 million) that this Commission determined was appropriate for TECO in its recent rate case.[21] Tr. 3548 (Harris). FPL's proposed reserve level is thus consistent with this Commission's recent storm damage accrual and reserve approach for TECO and consistent with FPL's risk exposure from storms. Denying the reserve and accrual approach would deny customers financial protection from the very real risk of storms and their impact on customer bills and would be inconsistent with this Commission's recent TECO decision.

X. AFFILIATE TRANSACTIONS

FPL incurs a variety of fixed and embedded support costs which are necessary to provide electric service to its Florida retail customers. Because FPL is a member of a broader corporate

[21] *See, In re: Petition for Rate Increase by Tampa Electric Company*, Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI (2009).

family, FPL can charge a portion of the costs for support services to its affiliates. This has allowed FPL to reduce its customers' share of these necessary fixed costs below what they would otherwise incur, while FPL and its customers benefit from the shared services. Tr. 3651 (Ousdahl). In part, this has helped FPL achieve its status as a low cost, high performing electric service provider. This structure has proved to be efficient and effective from an operating perspective, as special skills and talents can be leveraged over the larger organizational outreach. *Id.* FPL implements this cost sharing via an integrated structure of billings and allocations that are codified in its Cost Allocation Manual, the maintenance of which is mandated by Rule 25-6.1351, Fla. Admin. Code. Tr. 3652 (Ousdahl); Ex. 125; Ex. 126. No intervenor demonstrated that any adjustments to FPL's request were needed as a result of affiliate transactions.

OPC witness Dismukes alleged that there is an incentive to misallocate or shift costs to regulated companies to the benefit of unregulated affiliates (Tr. 2080 (Dismukes)), but failed to present any evidence in support of this allegation. In fact, Ms. Dismukes admitted under cross-examination that she had identified no deliberate intent to misallocate or shift costs for the benefit of unregulated affiliates. Tr. 2140 (Dismukes). Her specific recommendations and adjustments were ultimately shown to be unnecessary and unworkable or premised on erroneous assumptions, as discussed further below.

A. FPL Properly Allocates Affiliate Costs

As reflected in Exhibit 125, there are currently three ways FPL charges costs of shared activities to its affiliates: direct charges, service fees, and the Affiliate Management Fee ("AMF"). Tr. 3652-55 (Ousdahl). FPL has documented the practices and procedures that must be adhered to by each employee in the conduct of shared services and appropriate billings. Tr. 3655 (Ousdahl). The Company also maintains a Cost Measurement and Allocations department

whose responsibilities include the monitoring and controlling of the affiliate billing process. *Id.* This department prepares affiliate billing for FPL's charges based on the transactions provided by the originating services organization; reviews, implements and oversees the service fees; annually reviews services that should be allocated to the affiliates during the budgeting and forecasting process for the upcoming year with each corporate staff group; and performs the allocations included in the AMF. Tr. 3655-56 (Ousdahl). It is the primary control and oversight organization, whose mission is to ensure that FPL complies with Rule 25-6.1351, Fla. Admin. Code. Tr. 3656 (Ousdahl). The FPL Group Internal Audit Department has reviewed these controls and found them adequate for their purpose. *Id.*

FPL's required affiliate reporting also provides a high degree of transparency concerning all of its dealings with its affiliates in compliance with strict accounting and reporting requirements mandated by the Commission. Tr. 3687 (Ousdahl). Affiliate transactions and cost allocations were extensively reviewed by the FPSC audit staff in this proceeding, and no exceptions were noted. Tr. 3697 (Ousdahl). Affiliate transactions were also extensively reviewed by intervenors during the discovery process for this proceeding. Intervenors propounded 116 interrogatories and 110 requests for production of documents (not counting subparts, which could easily double these numbers) related to affiliate transactions. The only recommendations resulting from this review consisted of the faulty recommendations made by Ms. Dismukes, as discussed below.

B. Customers Benefit from Sharing Skills and Expenses with Affiliates

There are a variety of important benefits to FPL that come from the ability to share experience, personnel, and expenses with its affiliates.

Nuclear Operations: As an example, FPL and its affiliates are collectively the third largest nuclear operator in the United States, owning and operating eight nuclear units at five locations. Tr. 792-93 (Stall). FPL's affiliates own interests in and operate the Duane Arnold Energy Center in Iowa, the Point Beach Nuclear Plant Units 1 and 2 in Wisconsin, and the Seabrook Station in New Hampshire. Tr. 792 (Stall). Due to the number of nuclear units owned and operated by FPL and its affiliates, FPL is able to directly share operational experience among the plants in its nuclear fleet. *Id.* FPL continuously pursues standardization of programs and procedures, and shares best practices among the nuclear fleet, improving safety and efficiencies, and reducing costs which would have to be borne by customers. *Id.* FPL is also able to leverage contracts for goods and services among the nuclear fleet, resulting in more favorable pricing and contract terms. *Id.*

The benefits also include the ability to maintain a staff of subject matter experts to address specific technical or regulatory issues that may arise at the nuclear plants, which is increasingly difficult and expensive for smaller nuclear operators. Tr. 792 (Stall). In a similar manner, the fleet's nuclear plants all maintain an inventory of spare parts, which they share in critical circumstances. *Id.* Additionally, with the trend of consolidation in the nuclear industry, recruiting and retaining talent in an aging workforce has become a significant challenge, and one of the key benefits of operating a large nuclear fleet is that employees can pursue career advancement opportunities in FPL's nuclear program at different locations. Tr. 792-93 (Stall). These benefits are not available to the operator of a smaller nuclear fleet or a single nuclear plant. Tr. 793 (Stall). Therefore, it is clear that the large fleet of nuclear units operated by FPL and its affiliates significantly benefits FPL customers in many ways. Intervenors submitted no evidence challenging any of Mr. Stall's conclusions regarding these benefits.

Combustion Turbine Storage Fees: FPL incurs a monthly storage fee for access to two 7FA combustion turbines ("CTs"). It has been demonstrated that access to these CTs directly benefits FPL's customers at a very low cost. In June 2006, FPL Group purchased two 7FA CTs from General Electric, pursuant to a master agreement that provided very favorable pricing. Tr. 6272 (Hardy). FPL Group then elected to store them until future sites for their use were determined. *Id.* In the interim, the two CTs have been made available for use as critical spares for both FPL and NextEra. Tr. 6272 (Hardy). FPL's use of one spare reduced the outage duration for the very fuel-efficient Martin Unit 8A by 90 days. Tr. 6273 (Hardy). During the 90 days following the unit's return to service in March 2007, the unit generated approximately 480,000 MWh of electricity at a total fuel cost of about $34 million. *Id.* If the unit had not returned to service as quickly as it did, it is estimated that the replacement fuel cost would have been about 20% (or $6.8 million) higher. *Id.* Therefore, from a customer perspective, fuel savings realized on just one occasion resulted in a clear customer benefit from sharing the cost of storing the CT spares. Tr. 6273 (Hardy).

Because having these CT spares benefits both FPL and NextEra, storage fees are prorated between FPL and NextEra, based on the overall number of 7FA turbines in each fleet – thus fairly representing the benefit to each entity. Tr. 6273 (Hardy). The monthly storage fee of $75,000 is therefore allocated 60% to FPL and 40% to NextEra. *Id.* For 2010 and 2011, $540,000 is included in each year for FPL's share of the monthly storage fee. *Id.* These monthly expenses are the only cost to FPL. One hundred percent of the capital asset resides within FPL Group, not FPL. Tr. 6329, 6379-80 (Hardy). Intervenors tend to ignore the benefit that FPL and its customers receive from affiliate relationships, including the fact that FPL has greater access to

high quality resources without having to incur the full cost thereof. *See* Tr. 3690-91 (Ousdahl).

C. Proposed Adjustments were Proven Inappropriate (Issues 109 and 116a)

FPL is subject to close oversight and scrutiny by this Commission, FERC, and numerous other governmental and regulatory bodies. FPL is subject to SEC reporting requirements and, as a result, must provide audited financial statements and undergo a separate review pursuant to Public Company Accounting Oversight Board standards. Tr. 3684 (Ousdahl). Affiliate billings are subject to review for these separate company financial statements, just as any other transaction which gives rise to audited results. *Id.* Contrary to Ms. Dismukes's unsupported claim that there is an incentive to misallocate costs to the benefit of affiliates, FPL has clear incentives and obligations to report its costs accurately in these audited financial statements. *Id.*

One of FPL's primary management tools for controlling costs is the development and management of the departmental budget. Tr. 3685 (Ousdahl). FPL Managers are charged with developing budgets and managing spending levels at or below budgeted amounts, and the budget performance for FPL is measured net of all affiliate billings. *Id.* All variances to budget are analyzed and reported in detail to executive management and managing costs is a key component of incentive plans. *Id.* If an FPL manager ignored the proper billing of affiliate support costs, the manager would risk a budget overrun and jeopardize his or her performance evaluation results and commensurate incentive compensation reward. Tr. 3685 (Ousdahl). Contrary to Ms. Dismukes's claims, this provides a clear incentive for FPL managers to *properly* allocate costs. Affiliates similarly use budgets as management and performance tools, and closely monitor charges coming in from FPL for the same reasons. *Id.* Together, these competing incentives

work to provide accurate financial reporting that complies with company procedures and Commission rules. Tr. 3685-86 (Ousdahl).

Issue 109: The evidence in this proceeding demonstrates why each of Ms. Dismukes's specific adjustments for affiliate transactions should be rejected.[22]

- Direct charges projected for 2009, 2010, and 2011: Ms. Dismukes has understated the direct charges for the years 2009, 2010, and 2011 by failing to include the pole rental attachment fees paid to FiberNet. These fees amount to $1.6 million, $1.8 million, and $2.0 million, respectively. Additionally, Ms. Dismukes has used an incomplete source to obtain direct charges for the historical years. Tr. 3684 (Ousdahl); Ex. 194.

- AMF Drivers: Ms. Dismukes has made the incorrect assumption that all of the specific drivers used in the AMF will increase over time. FPL has provided drivers updated in the first quarter of the year as a part of its normal billing process to compare to those included in the rate filing. The drivers used for the test year forecasts and the new drivers are shown on Exhibit 356, and the minor fluctuations between the two sets of drivers indicate that many of the new drivers actually decreased. Tr. 3689 (Ousdahl).

- Power Generation Division executive payroll: These payroll costs are allocated based on the relative MW capacity operated by FPL and NextEra. Ms. Dismukes incorrectly concluded that FPL did not include 1,219 MW related to FPL's WCEC Unit 1 and 864 MW of wind capacity for NextEra for 2009. FPL updated its information for these additions as of the second quarter of 2009. Exhibit 357 shows the current forecasted relative MW of capacity, which are minimally different from those included in its original filing. Tr. 3689-90 (Ousdahl).

- AMF allocation percentages for NextEra: The correct allocation for the years 2009, 2010, and 2011 should be 31%, 33%, and 34% respectively. The percentages proposed by Ms. Dismukes appear to disregard the fact that the Seabrook, Duane Arnold, and Point Beach nuclear plants are all part of NextEra's operations. As a result, her calculation of the 2010 allocation to NextEra is understated by $4.0 million. Tr. 2099-2100 (Dismukes); Tr. 3700-01 (Ousdahl).

The Commission should similarly dismiss Ms. Dismukes's concerns with the Massachusetts Formula. First and foremost, the Massachusetts Formula is designed to perform a cost allocation. The fact that it does not attempt to quantify benefits is not a shortcoming. The

[22] FPL Energy Services ("FPLES") was the focus of some questioning during this hearing. The evidence demonstrated that FPL properly charges FPLES for services such as printing and providing space in billings. Tr. 6146-48 (Santos). Additionally, there is a very low customer complaint rate for almost all FPLES services/products. Tr. 6207-08 (Santos). Although FPLES provides unregulated products and services that are not subject to this Commission's jurisdiction, FPL is always willing to provide information about these services to the Commission.

objective of performing cost allocations to affiliates is to recover the *cost* of the shared services that the affiliates use in order to ensure that FPL's customers are not paying any *costs* that would result in a subsidy to those affiliates. Tr. 3690 (Ousdahl). Section (4) (c) of Rule 25-6.1351, Fla. Admin. Code, states that indirect costs shall be distributed to each non-tariffed service and product provided by the utility on a fully allocated cost basis. Tr. 3690 (Ousdahl). FPL's methodology fully complies with that rule. *Id.*

The Commission should also reject Ms. Dismukes's assertion that the Massachusetts Formula is inadequate for the allocation of shared services because it is size-based. Tr. 2098-2100 (Dismukes). Larger companies have greater requirements for support as measured by their utilization of labor and other resources. Tr. 3691 (Ousdahl). The Massachusetts Formula has been widely accepted in the utility industry as well as by this Commission. Tr. 3692 (Ousdahl). No adjustment is necessary to FPL's use of the Massachusetts Formula. Tr. 3691-92 (Ousdahl).

Ms. Dismukes's suggestion of using a 50/50 allocation of executive costs, as opposed to using the Massachusetts Formula, should be rejected. Tr. 2110 (Dismukes). Her lengthy discussion referring to the NextEra section of the FPL Group annual report simply distracts from the reality that FPL's methods are appropriate, consistent with precedent, and have resulted in charges to NextEra that appropriately track its growing status within FPL Group. Tr. 3692 (Ousdahl).

Ms. Dismukes tried to find fault with FPL's processes. For example, she claims that FPL should use direct time reporting rather than exception time reporting. Tr. 2088 (Dismukes). Considering the fact that each work order and charge location combination is 15 digits long, if every employee had to input every work order number every two weeks for every activity or project performed, the amount of numbers keyed in would be so large that the risk of input errors

would be unacceptably high. Tr. 3695 (Ousdahl). Furthermore, this requirement would increase non-productive time, and may lead to an increase in costs. Tr. 3696 (Ousdahl). The proper approach is what FPL does: use variable time reporting (which Ms. Dismukes refers to as "direct reporting") for employees who engage in ongoing support of multiple entities and exception time reporting for those who do not. *Id.*

The reliability of Ms. Dismukes's testimony is also questionable given its inaccuracies. For example, she states that FPL uses ER 99 work orders to capture direct charges from affiliates to FPL when in actuality FPL uses them only to capture direct charges from FPL *to* affiliates. Tr. 2085 (Dismukes); Tr. 3694 (Ousdahl). Ms. Dismukes also incorrectly asserts that all of FPL Group's costs are directly charged to FPL and then allocated to the affiliates through the Affiliate Management Fee. Tr. 2092 (Dismukes). In actuality, many of FPL Group's most sizable billings (such as for benefit plans) are direct charged by FPL Group to its subsidiaries, not allocated through the AMF. *See* Tr. 3698-3700 (Ousdahl). The fact that she misunderstood these and similar points may be attributable to the fact that she is not an accountant and does not have an accounting degree. Tr. 2139 (Dismukes).

Issue 116a: The Commission should reject OPC witness Dismukes's adjustment to defer gains on sale of utility assets from 2007 and 2008, and amortize them over five years. *See* Tr. 2123-24 (Dismukes). She improperly attempts to apply the Commission policy for the amortization of gains or losses on the sale of entire systems and land parcels, to FPL's sale of individual retirement units. Tr. 3692-93 (Ousdahl). Gains or losses that arise from the sale or interim retirement of units are deferred to the balance sheet and accounted for in future depreciation. Tr. 3693 (Ousdahl). Specifically, for the FPL transactions analyzed by Ms. Dismukes in 2007 and 2008, when the FPL assets were sold, the original cost of the asset was

debited to account 108 and credited to account 101. *Id.* Then, as required by USOA and FPSC rules and practice, FPL recorded a debit to cash and a credit to account 108 for the sales proceeds at market in accordance with FPSC and FERC guidelines for retirement of plant in service retirement units. *Id.* Customers will benefit from these gains through reduced return and decreased depreciation expense, as is the requirement of the USOA and regulatory accounting practice for electric utilities. *Id.* Ms. Dismukes's recommendations represent a deviation from both utility accounting rules and Commission practice and precedent. Tr. 3693 (Ousdahl). Again, Ms. Dismukes's lack of any accounting background is evident.

D. FPL New England Division (Issue 119)

FPL-NED provides transmission services to wholesale customers in New England and its operations and tariffs are regulated by FERC. Tr. 3704 (Ousdahl). FPL-NED has no operations in Florida, and none of its assets, costs, or operating expenses are recovered through retail rates. Tr. 3657, 3704 (Ousdahl). When an employee of FPL performs any work related to FPL-NED, the employee's time is directly charged to FPL-NED. Tr. 3704 (Ousdahl). FPL-NED's costs are also included in the development of the affiliate management fee factor; therefore, FPL-NED also receives its share of common costs. *Id.* Finally, all FPL-NED activity is captured in separate accounts that receive a jurisdictional separation factor of zero. *Id.* Together, these procedures ensure that retail customers do not bear any costs associated with FPL-NED. Tr. 3704-05 (Ousdahl).

Ms. Dismukes claimed that when FPL transfers the assets of FPL-NED to another legal entity under FPL Group Capital, the transfer should occur at the higher of cost or market. Tr. 2128 (Dismukes). However, Rule 25-6.1351(3)(d), Fla. Admin. Code, would not apply to the transfer of FPL-NED to a non-regulated affiliate. This rule requires that assets be transferred at

the higher of net book value or market when an asset used in regulated operations is transferred from a utility to a non-regulated affiliate. FPL-NED assets have never been used in any Florida retail operation. Tr. 3704, 3950 (Ousdahl). The Commission should therefore reject Ms. Dismukes's recommendation.

E. Corporate Aviation Costs (Issue 94)

FPL's corporate aircraft are used by both FPL and FPL Group or affiliated company employees. Tr. 730 (Olivera); Tr. 3460-61 (Bennett). FPL and its customers are only charged for costs associated with the business use of the aircraft for FPL purposes. Tr. 5189 (Pimentel). The costs associated with the rare non-business guests are not charged to FPL; nor are costs charged to FPL for the few trips that are taken for non-FPL business purposes. Tr. 5176, 5178 (Pimentel).

In response to particular concerns raised by the Commission and the Attorney General's office, FPL reported on particular trips that took place during 2006-2009 in Exhibit 481. Exhibit 481 confirmed that: (i) all aviation logs were provided for the requested time period in Exhibit 481; (ii) occupied seat miles associated with passengers on flights identified at hearing were appropriately assigned to FPL for legitimate business purposes; (iii) proper internal controls are in place to ensure that FPL's aviation-related expenses are appropriately captured and accounted for; and (iv) no Commissioners or any other employees of the Florida Public Service Commission flew on FPL's aircraft. Ex. 481.

Although the process of allocating aviation costs was shown to be appropriate, FPL removed the full amount of aviation costs ($7,647,481 for 2010 and $7,812,923 for 2011) from this base rate increase request as a concession and to assist in the completion of the hearing. This has the effect of reducing FPL's originally requested rate base by $25,414,298 in 2010 and $33,316,834 in 2011 as well as reducing the originally requested Net Operating Income ("NOI")

by $3,725,925 in 2010 and $4,221,520 in 2011 for the purposes of calculating the revenue requirements. *See* Exs. 481, 511.

XI. PROJECTED 2010 AND 2011 EXPENSES

FPL's projected expenses for 2010 and 2011 are appropriate and supported by a detailed budgeting process. FPL follows a rigorous, proven process in the development and approval of its O&M budgets. Tr. 1219 (Barrett). No intervenor took exception to FPL's budgeting and forecasting process or to the comparison of FPL's forecasted O&M expenses to the Commission's O&M benchmark. FPL has demonstrated superior cost performance over a sustained period of time with total non-fuel O&M expenses on a per-customer and per-megawatt hour basis that were in the top quartile among 28 peer companies over the period 1998 to 2007. Tr. 6577-78 (Reed). FPL's corporate commitment to superior operating efficiency has put the Company in the enviable position of being a low cost provider. The only adjustments warranted are those provided in Exhibit 358 and FPL's adjustments made during the hearing to remove aviation costs (Exs. 481, 511) and reduce executive compensation expenses (Ex. 514).

A. FPL's O&M Projections are Reasonable (Issues 93, 106, 122, 128, 130-132, 134)

Applying the Commission benchmark metrics of customer growth and inflation yields a 2010 Test Year Benchmark of $1,504 million. Tr. 5916 (Barrett). The Company's 2010 Adjusted O&M Expenses are projected to be $1,565 million, or $61 million above the benchmark. *Id.* The reasons for this variance by function have been fully justified in the Company's MFRs. Of this $61 million, approximately $26 million is related to the additional costs of placing new generating units into service at Turkey Point and West County. *Id.* The remaining $35 million above the Commission benchmark level is due to a number of cost drivers, including the significant impact of the economic deterioration on the Company's

customer service costs and increased regulatory compliance costs. *Id.* Adjusting the 2010 benchmark to include the incremental costs of operating the new Turkey Point and West County units yields an average annual growth in O&M expenses over the 2006 to 2010 period of only 0.6%. *Id.* This demonstrates FPL's commitment to controlling costs and the reasonableness of the level of expenses projected for 2010.

Mr. Kollen asserts the increase in O&M from 2008 to 2010 "is excessive when compared with the Company's actual experience in recent years." Tr. 3119 (Kollen). However, Mr. Kollen fails to make necessary adjustments for deferrals and one time expenses in each of those years. Tr. 5912-15 (Barrett). When the appropriate adjustments are made, the average annual growth from 2008 to 2010 is only 1.1%. Tr. 5915 (Barrett). FPL believes that an even more appropriate measure is the Company's performance over the 2006 to 2010 period; as noted above, the average annual growth over that period was only 0.6%. This longer view of the Company's cost performance is more reflective of the level of sustainable cost performance, as most of the base O&M expenses are fixed rather than variable. Tr. 5915-16 (Barrett).

Issue 122: With respect to FPL's rate case expense, the Company has been prudent in limiting its incremental rate case expenses, while being mindful of the need to present and fully support its case in accordance with Commission requirements. Tr. 3639-40 (Ousdahl). On October 16, 2009, FPL provided the Commission with its actual rate case expenses through September 2009, as well as a new projected total rate case expense amount. Ex. 536. Both the expenses to date and the projected total are substantially higher than what FPL anticipated and included in MFR C-35. Indeed, it appears that the amount included in its request would have been reasonable for a rate case examining the 2010 test year alone, while FPL's case in fact addressed both 2010 and the 2011 SYA. Tr. 6517-18 (Davis). FPL is not requesting that the

increased expenses be reflected in the Commission's determination in this docket. However, the increased amounts do provide compelling evidence that the rate case amount included in FPL's request was reasonable, conservative, and should be fully allowed.[23]

B. FPL's Projected Compensation Expenses are Reasonable and Necessary to Continue to Provide Excellent Service (Issues 100, 102, 103)

FPL's total projected compensation and benefits cost is appropriate and reasonable. The reasonableness is demonstrated in a number of ways, including comparison of FPL's salaries to the relevant comparative market, comparison of growth of the total costs to principal inflation indices, comparison of FPL's salary cost and productivity measures to those of similar utilities, and comparison of relative value of benefits programs to other utility and general industry companies. Tr. 5571 (Slattery); Ex. 104; Ex. 108. Compensation to employees is a necessary cost of providing safe, efficient, and reliable service to customers. As such, 100% of a reasonable total level of compensation costs should be included for ratemaking purposes.

The originally requested level of salaries and employee benefits is prudent and reasonable. Costs properly allocated to affiliates or the wholesale jurisdiction have been removed and the compensation and benefit expense requested reflects only those amounts attributed to services provided to the utility. Nonetheless, in light of current economic considerations and in an effort to assist with the completion of the hearing, FPL agreed to reduce its 2010 and 2011 O&M expenses by an amount equal to 50% of executive incentive compensation costs and to reflect the elimination of executive raises in 2010 and 2011. Beyond these reductions (totaling $17.2 million for the 2010 test year and $19.3 million for the 2011 test year), no further adjustments should be made to the requested expense level.

[23] Questions were asked during the course of the hearing whether FPL incurred costs to encourage customers to attend the quality of service hearings. There were no such costs incurred or included in FPL's request. *See* Tr. 1613 (Santos).

OPC witness Brown has suggested that the requested expense level be reduced to reflect a lower staffing level.[24] She argues that because actual staff levels have historically lagged behind forecasted levels, the amount forecasted for this case should also be reduced. While acknowledging this downward adjustment to staffing levels would require an upward adjustment in overtime expense, her increase to the overtime expense falls woefully short of the needed increase in overtime expense that would result from staffing level reductions. Ms. Brown acknowledged this fact on cross-examination when she agreed to a simplified hypothetical whereby a 33% decrease in the number of staff would require a 766.66% increase in overtime to accomplish the same amount of work. Tr. 2522-24 (Brown). The logic of this result is borne out by the facts in this case. While FPL has fallen slightly short of staffing goals, its actual salaries and wages have exceeded estimates. This is because FPL has had to rely on contractors, outsourcing, overtime, and other means to get the job done, which drives up costs. Tr. 5574 (Slattery). By using optimal staffing levels, FPL's projection of salary and benefit costs are more conservative than basing projections on historical actual gross payroll. Tr. 5575 (Slattery).

Every other suggested adjustment to FPL's projected salary and benefit expense would result in the denial of cost recovery for an expense that the evidence shows is reasonable and prudent. Florida case law is clear that any disallowance of employee compensation must be supported by competent substantial evidence that such compensation is excessive when compared to the market for similar services, duties, activities, and responsibilities. *Florida Bridge Company v. Bevis*, 363 So. 2d 799 (Fla. 1978); *Sunshine Utilities of Central Florida, Inc. v.Florida Public Service Comm'n*, 624 So.2d 306 (Fla. 1st DCA 1993). No party has offered evidence to contradict the evidence provided by FPL that the compensation to its employees is

[24] The accuracy of Ms. Brown's testimony is particularly questionable given the fact that she selectively chose to correct certain identified errors in her testimony, but not others. *See* Tr. 2519-22 (Brown).

reasonable as measured by this standard. OPC witness Brown specifically stated she did no market comparison of employee compensation either on an individual or aggregate basis. Tr. 2524-25 (Brown).

The testimony and exhibits of FPL witnesses Slattery and Meischeid provide compelling evidence that the level of FPL's overall salary and benefits expense, including merit increases forecasted for the test years, is reasonable when compared to the market. FPL's total compensation costs (salaries and benefits) as compared to 1988 costs have grown at a rate less than the Consumer Price Index ("CPI") over the same period. Tr. 5549 (Slattery); Ex. 104. Over the 2006 to 2011 period, the projected increase is just slightly higher than the projected growth in CPI. Tr. 5552 (Slattery). Using the more relevant and appropriate index, the Bureau of Labor Statistics and Compensation per Hour ("BLSCH"), the increase projected by FPL is considerably less than this index; a 14% increase as compared to an 18.6% increase for the BLSCH. *Id.*

FPL's projected increases in merit pay are also in line with the market. OPC witness Brown misinterpreted the market data on which she relied for her claim that other companies are not projecting merit increases: the data clearly show that other companies are projecting such increases. *See* Tr. 5590-91 (Slattery). Further, the benchmarking done by FPL shows that the Company's budgeted merit pay increase of 2% is significantly below average levels. Tr. 5591 (Slattery); Tr. 3854, 3894-95 (Meischeid).

Ms. Slattery also testified to the fact that FPL annually performs detailed benchmarking analyses of its pay rates to ensure comparability to compensation paid in the market for employees and executives providing similar services and with similar duties, activities, and responsibilities. Tr. 5551, 5686-88, 5758 (Slattery). In the aggregate, all nonbargaining positions benchmark at 2% below the market midpoint. Tr. 5551, 5758 (Slattery); Ex. 105.

Predictably, individuals may be paid more or less than the market level depending on relevant considerations such as experience, longevity with the company, geographic assignment, and other factors. But this aggregate comparison to the benchmark provides compelling evidence that FPL's salaries are reasonable.

In response to questions regarding the level of pay for specific employees, Ms. Slattery explained the need for identified overtime pay and sign-on or retention bonuses. Furthermore, when sign-on bonuses are used, payback provisions are used to assure FPL and its customers receive the benefit of the investment in that individual. Tr. 5751 (Slattery). No witness presented testimony refuting the prudence or reasonableness of the compensation to these specific employees; accordingly, no record evidence would support such a disallowance.

Finally, OPC witness Brown argues for two more downward adjustments to compensation expense based on target payout levels used by FPL to project compensation expense, and because financial objectives are among those objectives identified for earning incentive pay. Both these arguments promote form over substance and, more importantly, bear no relation to the evaluation required of this Commission in determining the prudence and reasonableness of the compensation expense. These arguments are simply a quarrel with the design and mechanics of FPL's total reward program, a program that has benefited customers by delivering superior performance at comparatively low rates. Tr. 5569-70 (Slattery). As pointed out by FPL witness Meischeid, the rationale for the adjustments advocated by witness Brown encourages decisions on incentive compensation based "not on sound business judgments" but on an allocation that "maximizes their [the utility's] ability to recover their costs." Tr. 3854 (Meischeid). It also leads to disparate treatment between utilities. For example, Company A, whose compensation costs are the same or less than Company B, could nonetheless have a

portion of that compensation disallowed simply because it uses different design or method for determining incentive compensation. Such a result would be arbitrary and a decision based on such rationale would be an abuse of discretion as it has no support in logic or precedent.

It would also be an abuse of discretion to disallow a portion of compensation expense based purely on a desire to have shareholders bear some of the expense. The only portion that can legitimately be assigned to shareholders is that amount shown to be excessive as compared to the market for similar services, duties, activities, and responsibilities. *Sunshine Utilities of Central Florida v. Florida Public Service Commission*, 624 So.2d 306 (Fla. 1st DCA 1993). No such showing has been made on this record.

C. FPL's Adjustments to Operating Expenses are Appropriate (Issues 96, 97, 108, 124-126, 129, 132)

FPL made a number of adjustments to its projections that are reasonable and appropriate and that were not challenged by any intervenor in this proceeding, or which were adjusted after FPL's initial filing to the satisfaction of intervenor witnesses. *See* Ex. 358. Certain other FPL adjustments were disputed by intervenors, but no compelling evidence in support of their positions was provided. Those disputed adjustments included FPL's removal of a distribution from Nuclear Electric Insurance Limited ("NEIL") and FPL's treatment of Bad Debt expense.

NEIL Distribution: The Company was alerted by NEIL in December 2008 that poor investment performance in 2008 would likely affect NEIL's ability to make future distributions. NEIL informed FPL that it should not expect a distribution; accordingly, its removal from the 2010 and 2011 forecasts is appropriate. This reduces pretax NOI in the amount of $11,093,959 in 2010 and 2011. Tr. 3714-15, 3764-65 (Ousdahl); Ex. 358.

Issues 96 & 97 - Bad Debt Expense: OPC criticized FPL's proposed bad debt expense in three respects. First, OPC argues that FPL overstated the revenue projections used in its

regression analysis for calculating its bad debt factors by using higher revenues than those reflected in its load forecast modeling and test year projections. FPL corrected for this mismatch by updating the regression analysis using kWh sales, real price, and other economic variables to match the same vintage as the final rate case filing. As a result of this update, bad debt increased by $4,494,098 in 2010 and $1,600,000 in 2011. *See* Ex. 358.

Second, OPC argues that the benefits of enhanced collection and assistance programs have not been sufficiently taken into account in projecting the level of write-off savings, and therefore bad debt expense is overstated. OPC incorrectly assumes an inappropriate amount of incremental write-off savings due to an increase in the number of customers that would sign up for automated bill payments at the time of connect. *See* Tr. 2433 (Brown). However, FPL's regression model used to forecast bad debt expense already assumes an increase in the number of customers signing up in 2010 and 2011. Tr. 6053 (Santos). In addition, OPC overestimates the amount of remote connect switch write-off savings by including savings before they are expected to occur. Tr. 6054. (Santos).

Third, OPC also alleges that clause bad debt should not be recovered via the clauses because doing so reduces the incentive for FPL to decrease bad debt expense. Tr. 2436 (Brown). However, the cost incurred by FPL to mitigate bad debt expense is a base rate cost and will equally benefit all bad debt exposure whether base portion or clause portion. When FPL is able to reduce write-offs, all revenue losses are reduced. Tr. 3682-83 (Ousdahl). Accordingly, is it appropriate to move clause bad debt to the appropriate clauses.

D. Intervenor's Proposed Adjustments Should be Rejected (Issues 93, 95, 101, 102, 107)

Intervenors have proposed a number of arbitrary adjustments that should be rejected. These adjustments are for unidentified "productivity improvements," an inappropriate

disallowance of the FPL Historic Museum costs, unrealistic expectations about immediate cost savings from the AMI project, an inappropriate amortization of FPL's AEGIS refund, and unsupported challenges to nuclear staffing levels.

Issue 101: SFHHA argues that FPL should reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs. Tr. 3129 (Kollen). SFHHA witness Kollen uses five and ten-year average non-farm output per hour to infer a two percent annual productivity improvement potential and then applies that to 2008 payroll. Tr. 3130 (Kollen). A better measure of the Company's productivity is payroll dollars per customer rather than payroll per hour. Tr. 5917 (Barrett). FPL's forecasted productivity as measured by payroll per customer included in the 2010 test year and the 2011 subsequent year is reasonable. The projected increases in base pay per customer in 2010 and 2011 are lower than the average increase in that metric from 2006 to 2008. Tr. 5918 (Barrett). Moreover, total cost performance is more important to customer bills than performance on only one component of costs. The Company's goal is to serve customers reliably at a reasonable cost, not to achieve a particular payroll cost per hour.

Issue 93: FPL appropriately included operating costs associated with the FPL Historical Museum above the line as an operating expense. The FPL Historical Museum is a subsidiary of FPL that is charged with maintaining records and artifacts associated with FPL's long history in Florida. Tr. 3703 (Ousdahl). These activities are important to the preservation of the historically significant information about FPL and the industry from the early 20th century until today. Tr. 3703-04 (Ousdahl). As explained by FPL witness Ousdahl, this museum has recently provided specific, identifiable benefits for FPL customers. Materials archived in this museum were used to determine the change in the coastline near FPL's Riviera and Cape Canaveral plants,

informing FPL's pursuit of the modernization of those plants. Tr. 4004 (Ousdahl). The FPL Historical Museum costs are legitimate operating costs, and it is therefore inappropriate to make an adjustment to move such costs below the line and treat them as charitable donations as suggested by Ms. Dismukes. Tr. 3704 (Ousdahl).

Issue 95: Mr. Kollen also suggested that cost savings associated with AMI meters should be realized and reflected in direct proportion to the number of AMI meters deployed each year. As explained in detail by FPL witness Santos, this is simply unrealistic. Tr. 6048-50 (Santos). Moreover, SFHHA failed to present any evidence demonstrating that the proportion of operational cost savings realized each year would in fact equal the proportion of the total investment made each year. FPL has included the appropriate cost savings associated with AMI in 2010 and 2011. The savings for AMI only occur as the meters are deployed, and after all components and supporting processes are fully developed, tested, and implemented. Tr. 6049-50 (Santos).

Issue 107: OPC witness Brown recommended that the Commission require FPL to amortize the AEGIS environmental insurance refund over a five year period beginning in 2010. Tr. 2472-73 (Brown). Her recommendation is unreasonable. This policy was purchased in a non-base rate setting year, and the purchase was never included in FPL's Environmental Cost Recovery Clause ("ECRC"). Tr. 3662 (Ousdahl). In other words, customers have never paid for this item. Further, commuting this policy does not represent an accounting gain and should not be treated as anything other than a change in a period cost. Tr. 3662-63 (Ousdahl). Ms. Brown's attempted analogy to amortization of FPL's Glades Power Park ("FGPP") preliminary project costs misses the mark. Without amortization, the Company would have been denied any opportunity to recover preliminary costs incurred in reliance on Commission direction to pursue

coal-fired generation. *See* Tr. 3663-64 (Ousdahl).

Issue 102: FIPUG witness Kollen recommended that the Commission disallow the costs associated with FPL's projected nuclear staffing increase of 270 full time employees. First, it is important to note that in Mr. Kollen's criticisms, he inappropriately compared the actual 2006 nuclear staffing level – which did not consider the cost of authorized but unfilled positions, against the 2010 forecast – which assumed that all authorized positions will be filled or that the budgeted work would be completed through overtime and/or contract labor. Tr. 2903-04 (Stall). All of FPL's work must be completed, whether the Company uses contract labor or increases the amount of overtime. Thus, the focus on headcount by Mr. Kollen, even if one were to disregard the improper comparison, is misplaced. Tr. 2904 (Stall).

Mr. Kollen failed to recognize that 129 of those positions do not affect FPL's O&M expense request in this case – because they are related to non-O&M activities such as the uprate projects, the Capacity Clause, and affiliate support. For the remaining personnel whose costs are a part of this base rate request, Mr. Kollen fails to understand the substantial training, development, and oversight necessary for these positions. Tr. 2904-05 (Stall). FPL's projected level of nuclear staffing is necessary to prudently plan for attrition and retirements. In sum, it represents the number of employees needed to support the level of effort necessary to ensure safe and reliable operations of its nuclear plants. Tr. 2905-06 (Stall).

XII. PROJECTED 2010 AND 2011 RATE BASE

FPL's projected levels of rate base for 2010 and 2011 are appropriate. For 2010, FPL's projected December 31, 2010 thirteen-month average jurisdictional adjusted rate base is $16.8 billion ($17.1 billion as originally filed). Ex. 180 (MFR B-1). For 2011, FPL's projected December 31, 2011 thirteen month average jurisdictional adjusted rate base is $17.5 billion

($17.9 billion as originally filed). Ex. 180 (MFR B-1). These amounts reflect the significant capital expenditure reductions that FPL made during the budgeting process. Forecasted capital expenditures for 2010 are overall $91 million lower than FPL's originally proposed budget. Tr. 1447 (Barrett). This includes reductions of $297 million in the areas of power generation, transmission, and distribution. Ex. 386. For 2011, FPL's approved budget includes cuts totaling $325 million in the areas of power generation, transmission, distribution, and customer service, when compared to FPL's proposed 2011 budget. Ex. 386. Clearly, FPL has engaged in significant "belt tightening" in light of the economic environment. FPL's projected levels of rate base also include certain adjustments that are necessary to fairly present rate base and Working Capital. Tr. 3623-24 (Ousdahl); Tr. 6040 (Barrett); Exs. 119, 180 (MFR B-1).

A. FPL's Projected Levels of Rate Base are Reasonable (Issues 46, 50-52, 55-56, 59-63, 173)

FPL presented reasonable projected levels of CWIP, Property Held for Future Use, and Nuclear Fuel, which no party disputed. FPL also made a number of adjustments for projects such as the EnergySecure natural gas pipeline, WCEC Unit 3, new nuclear and nuclear uprates, and FGPP, to name a few, which remain undisputed.

FPL's levels of Plant in Service and Working Capital are also reasonable. For the 2010 projected test year, FPL's projected level of Plant in Service is $27.819 billion ($28.288 billion as originally filed) and for the 2011 subsequent projected test year, FPL's projected level of Plant in Service is $29.043 billion ($29.599 billion as originally filed). FPL's projected level of accumulated depreciation is $12.416 billion ($12.590 billion as originally filed) in 2010 and $13.115 billion ($13.307 billion as originally filed) in 2011. The plant in service and accumulated depreciation reserves for the projected and subsequent projected test years are appropriate. Tr. 3714 (Ousdahl); Exs. 180 (MFR B-1), 358. As discussed above in Section VIII,

FPL's projected level of accumulated depreciation is appropriate given the correct assessment of FPL's depreciation expenses and proper treatment of the theoretical reserve surplus.

FPL's projected level of Working Capital is $217.040 million ($209.262 million as originally filed) for 2010 and $330.077 million ($335.360 million as originally filed) for 2011. These requested levels of Working Capital are appropriate and reflect adjustments for clause over-recoveries. Tr. 3644 (Ousdahl); Exs. 180 (MFR B-17), 358, 481, 511. The Commission's current practice with regard to cost of capital on clause over- and under-recoveries is not equitable. When FPL is projected to be in an over-recovery position regarding the fuel, capacity, environmental, and conservation clauses at the time of a base rate filing, the FPSC has not permitted FPL to remove the liability from Working Capital even though FPL compensates customers by paying interest on the over-recovery through the cost recovery clauses. This is inconsistent with the treatment of under-recoveries, where the FPSC has previously required FPL to remove the asset from Working Capital. As explained by FPL witness Ousdahl, symmetrical treatment is appropriate. For this reason, FPL has removed the regulatory liability associated with projected over-recoveries from Working Capital. Tr. 3644-45 (Ousdahl).

B. Intervenors' Proposed Adjustments Should be Rejected (Issues 47, 58, 133)

SFHHA witness Kollen made a generic recommendation to reduce FPL's plant investment to reflect some annualized level of capital expenditure reductions with no support whatsoever. *See* Tr. 3167 (Kollen). Such an adjustment would be inappropriate because, as described above, FPL has already taken significant steps to reduce costs in its budgetary process. FPL's forecasted capital expenditures for 2010 already include significant reductions.

Issue 47 & 133: Intervenors have taken issue with FPL's inclusion of costs associated with its AMI program. FPL has been focused on AMI solutions for several years, and has a

deployment plan in place to install "Smart Meters" for over four million residential and small/medium business customers. The costs associated with AMI are based on this deployment plan and have been properly included in rate base for 2010 and 2011. Tr. 1551-52, 1648 (Santos). SFHHA argues that FPL has failed to reflect grants available from the U.S. Department of Energy ("DOE") as a reduction to its AMI meter (Smart Grid) costs. However, as explained by Ms. Santos, the purpose of the DOE grants is to stimulate investments in *new* projects. Tr. 1648 (Santos). As a result, the likelihood of being awarded a grant for a previously planned project is slim. *See* Tr. 1651-52 (Santos). Therefore, in its grant proposal, FPL proposed additional projects which were not previously planned in the areas of transmission, distribution, and home area networks and which were not included in this base rates request. Tr. 1648 (Santos). Since the hearing, FPL was notified that it did receive the Smart Grid Investment grant. The amount awarded will be put towards new, incremental projects, for the further benefit of ratepayers.

Issue 58: FPL has included an additional expense accrual of $6.0 million for end-of-life nuclear fuel last core and $137,000 for end-of-life materials and supplies inventory in both the 2010 Test Year and 2011 Subsequent Year. Since the filing of its last decommissioning study in 2005, FPL has noted a significant increase in the projected value of the end-of-life nuclear fuel last core due to a sustained increase in the price of fuel and has presented evidence to support updating these values in this proceeding. Tr. 3641-42 (Ousdahl).

OPC witness Brown argues that FPL's current accrual for end-of-life ("EOL") materials and supplies ("M&S") and last core nuclear fuel should be suspended and that FPL should use its decommissioning fund to cover the cost of EOL M&S and last core nuclear fuel. Tr. 2474-76 (Brown). Ms. Brown's arguments should be rejected. FPL's accruals for EOL M&S and last

core values are in accordance with Order No. PSC-02-0055-PAA-EI, wherein the Commission recognized that M&S and last core values that will remain at the end of life at the nuclear units should be amortized over the remaining life of the nuclear units. Tr. 3679 (Ousdahl). Ms. Brown also ignored relevant requirements of the U.S. Nuclear Regulatory Commission and the Internal Revenue Service that would prevent use of nuclear decommissioning funds for any purpose other than for decommissioning.[25] Tr. 3680-81 (Ousdahl).

XIII. PROJECTED 2010 AND 2011 REVENUES AND REVENUE REQUIREMENTS

Concurrent with the development of the detailed O&M and capital expenditure budgets, other key components of the financial forecast were developed, including the energy sales revenue forecast and forecasts of other base revenues. Tr. 1221 (Barrett). Other inputs into the financial forecast include taxes other than income taxes, various income tax items, non-clause fuel and capacity charges, miscellaneous below-the-line income and expense items, various working capital items, and financing plans. All of the above mentioned items were provided as inputs to the Consolidated Financial Model ("CFM"), which ultimately is used to develop rate base, NOI, and capital structure on a per book and jurisdictional adjusted basis. Tr. 1223-25 (Barrett); Ex. 55. On average, FPL's actual net income results varied 2.3% from budget over the past five years, indicating that FPL's process for budgeting is highly effective in predicting future operating results and can be relied upon in a rate setting proceeding. Tr. 1225 (Barrett).

Every major assumption used in the forecast reflects the severe economic downturn. Tr. 1228 (Barrett). FPL updated its forecast assumptions numerous times during 2008, using the most current reliable estimates from internal and external subject matter experts. Tr. 1229-30 (Barrett). The biggest impact has been a reduction in the number of customers and the level of sales and corresponding revenues FPL will realize. Tr. 1230 (Barrett). FPL anticipates that this

[25] *See* 10 C.F.R. 50.2, 50.75, 50.82; Treas. Reg. 1-468A-IT(b)(6).

economic downturn will continue to have an impact through 2011 and beyond. As the Company has refined its view of customer growth and usage, FPL has actively sought opportunities to revise its expenditures to reflect the lower growth expectations. *Id.*

A. FPL's Projections are Reasonable (Issues 3, 7, 82-92, 135-137, 139)

FPL's 2010 base revenues at current rates would be $3,880,726,521, and FPL's 2011 base revenues at current rates would be $3,928,481,105. *See* Ex. 180 (MFR E-13a). FPL has correctly calculated the 2010 and 2011 revenues at current rates. *See* Ex. 180 (MFRs E-13a, E-13b, E-13c, E-13d). This level of revenues would be wholly insufficient to maintain FPL's financial integrity.

In calculating NOI, the appropriate rate of inflation and customer growth for use in forecasting for the 2010 projected test year and the 2011 subsequent projected test year have been utilized by FPL. These factors were appropriately developed and represent reasonable expectations. Moreover, these factors continue to remain extremely reliable today, when compared to more recent forecast data. Tr. 971-72 (Morley).

FPL's forecast shows a continued slowdown in customer growth. On an average annual basis there was a 0.3% increase in customers in 2008. Tr. 971 (Morley); Ex. 44. FPL is projecting a 0.2% increase for 2009, a 0.6% increase in 2010, and a rebound in 2011 to 1.3%. *Id.* Consistent with recent actuals, the absolute number of new service accounts ("NSAs") is projected to remain high relative to customer growth. Thus, while customer and sales growth have both dropped dramatically, from 2006 through 2010 FPL is still projected to add over 370,000 NSAs. Tr. 972 (Morley). The forecast incorporates the most recent population projections from the University of Florida available at the time the forecast was developed. The customer forecast is based on sound statistical methods previously reviewed and approved by the

Commission. A comparison of the forecasted number of total customers with recent actuals further supports the reasonableness of the forecast. *Id.*

FPL's sales forecast has been demonstrated to be extremely reliable. FPL's year-to-date variance as of July 2009 was less than 0.1%. Tr. 5843 (Morley). To a large extent, this accuracy is attributable to the reasonable and appropriate adjustments FPL made to its econometric model. Tr. 5960-61 (Morley). OPC's proposals to reduce or eliminate two of those necessary adjustments would result in a far less accurate forecast than FPL's. OPC's proposals result in year-to-date variances 15 times the size of FPL's. Tr. 5961 (Morley).

Issue 89: FPL is proposing an adjustment to its late payment charge ("LPC") for the 2010 and 2011 projected test years. FPL currently charges 1.5% for late payments, but is proposing the greater of 1.5% or $10. Tr. 1567 (Santos). Driven largely by the deteriorating economy, FPL has seen a steady increase in the number of customers making late payments. Tr. 1567-68 (Santos). Other industries use late payment charges greater than $10 to encourage customers to pay on time, and other Florida utilities currently charge a fee similar to what FPL is proposing. *Id.* FPL believes a $10 minimum late payment charge will provide the appropriate incentive for customers to pay their FPL bills on time. *Id.*

OPC witness Brown asserts that FPL should not have assumed a 2% net write-off factor and a 30% behavior change in the calculation of LPC revenues. The adjustments that she makes incorrectly result in an LPC revenue increase of $25,024,251 in 2010 and $26,034,753 in 2011. Tr. 2439 (Brown); Tr. 6055 (Santos). Ms. Brown proposes that the 2% net write-off factor be excluded because she asserts that it is reflected in the bad debt total. Tr. 2439 (Brown). Whether the 2% LPC write-off is accounted for as part of the bad debt expense or in the calculation of the LPC revenue, it has the same basic impact. Tr. 6055 (Santos). As such, the LPC bad debt rate,

applied to the incremental revenue associated with the proposed LPC charge, is justified. FPL subsequently performed an analysis that shows the write-off rate associated with LPC revenue in 2008 was 2.35%, so the 2% assumption is conservative. Tr. 6056 (Santos).

With respect to the anticipated 30% behavior change, the purpose of instituting a $10 minimum is to change behavior and induce more timely payment. Ms. Brown acknowledges that there should be a change to late payment behavior, but makes a nonsensical argument that a customer will evaluate whether to pay late, depending on the percentage of the total bill that the late payment fee represents. *See* Tr. 2438 (Brown). By minimizing the behavior change assumption of 30% and relying on a historical late payment rate, Ms. Brown effectively diminishes the impact that the LPC is specifically designed to achieve. Ms. Brown's use of a historical late payment rate is not founded on a price change behavioral response. Tr. 2438 (Brown). In contrast, FPL has analyzed the likely behavioral impact of the change in late payment charges by evaluating the electricity demand elasticity, and that analysis fully supports the use of a 30% change. Tr. 6056-57 (Santos). FPL has properly projected LPC revenues and maintains that Ms. Brown's adjustments are unrealistic. If the Commission does not agree, then FPL withdraws its proposed change to the LPC and the projected 2010 and 2011 LPC revenues should be reduced accordingly.

Ms. Brown also asserts that any increase in base revenues will result in an increase in late payment fees and that therefore it would be appropriate to include an offset in the revenue expansion factor for this additional revenue. Tr. 2440 (Brown). Reflecting the revenues from late payment fees as a component of the revenue expansion factor would be inconsistent with Commission precedent. Tr. 6057-58 (Santos). Furthermore, FPL's base rate request already fully reflects the increase in late payment fee revenues that are projected for 2010. *See* Ex. 180

(MFR E-5); Tr. 6058 (Santos). Ms. Brown's adjustment would therefore improperly double-count the revenue impact of those fees and should be rejected. Tr. 6059 (Santos).

B. FPL Applied Appropriate Jurisdictional Separation Factors (Issues 15 and 16)

The jurisdictional separation factors are primarily based on demand or energy sales for the retail and wholesale jurisdictions. However, other factors that best represent each jurisdiction's cost responsibility are utilized. Tr. 4052 (Ender). As outlined in Docket No. 970001-EI, Order No. PSC-97-0262-FOF-EI, wholesale sales that are non-firm or less than one year in duration are treated as non-separated sales because a utility does not commit long-term capacity to such wholesale customers and therefore the investment remains in the retail rate base. However, the retail customers receive all of the revenues, both fuel and non-fuel, that the non-separated wholesale sales generate through a credit in the fuel and capacity cost recovery clauses. Tr. 4053 (Ender). The FPSC has historically required utilities to separate and treat as 100% wholesale firm sales of more than one year that commit production capacity to wholesale customers. Tr. 4053-54 (Ender). The jurisdictional separation factors are applied to the Company's total utility rate base and NOI to compute jurisdictional retail rate base and NOI. The jurisdictional, retail-adjusted rate base and NOI are then allocated to retail rate classes in the cost of service study. Tr. 4054 (Ender).

In FPL's filed cost of service study for 2010 and 2011, all transmission service revenues were allocated as credits or cost-offsets to the retail jurisdiction and to wholesale customers on a bundled wholesale rate. Tr. 4089 (Ender). FPL's use of this revenue credit methodology for transmission service revenues is consistent with this Commission's order in FPL's last fully litigated case, Docket No. 830465-EI. However, FPL does not oppose OPC's method of addressing transmission related costs and revenues for long-term firm non-jurisdictional

transmission service contracts as proposed by Ms. Brown. *Id.* Ms. Brown states the effect of this revenue credit method would reduce FPL's requested revenue increase by $18.5 million in 2010 and $19 million in 2011. Tr. 2427 (Brown). However, the actual amount is approximately $23.0 million and $26.6 million for 2010 and 2011, respectively. Tr. 4090 (Ender). As a result, jurisdictional revenue requirements should be reduced by $22,975,000 for the 2010 Test Year and $26,615,000 for the 2011 SYA. *Id.*; Ex. 358; Ex. 378.

XIV. COST OF SERVICE METHODOLOGY AND REVENUE ALLOCATION

Once the Commission has established the retail revenue requirements, the responsibility for paying the revenue requirements must be allocated among the various customer classes. Cost of service studies are this Commission's primary tool in assigning revenue requirements to customer classes. FPL is proposing to change its existing rates in order to support the target revenues by rate class to move closer to parity. Tr. 4193 (Deaton). The changes to existing rates proposed by FPL are consistent with the objectives of providing rates that are cost-based, understandable, and send appropriate price signals to customers. Tr. 4194 (Deaton). Presently, residential and small business customers are subsidizing large commercial and industrial customers by paying more than their fair share of costs. It is unsurprising that FIPUG, FRF, and SFHHA all oppose the move toward parity in this proceeding because it would shift costs that should be borne by industrial and large commercial customers (the customers that these intervenors represent) to the residential and small commercial customers.

A. FPL's Cost of Service Study Provides the Correct Basis for Revenue Requirement Allocation (Issues 140 and 141)

FPL's proposed 12-CP and $1/13^{th}$ cost of service methodology results in a fair allocation of production and transmission costs to rate classes. Tr. 4069 (Ender). The 12-CP and $1/13^{th}$ methodology accurately reflects FPL's generation plan because it recognizes that the type of

generation unit selected is influenced by both energy and peak demand; reflects the influence of the summer reserve margin; and recognizes that capacity must be available throughout the year to meet FPL's winter reserve margin and the annual loss-of-load probability ("LOLP") criteria in FPL's resource planning process. *Id.* In this proceeding, FPL used a 12-CP and 1/13th methodology for all plant production. Tr. 4056 (Ender). The 12-CP and 1/13th methodology has a significant history of regulatory acceptance in Florida. *Id.*

FIPUG witness Pollock's primary recommendation is that the Commission should retain the 12-CP and 1/13th methodology, however he also proposes the use of the Average and Excess ("A&E") allocation methodology if the Commission is "faced with a choice" between retaining 12CP and 1/13th Average Demand ("AD") or using a method that gives more weight to AD. Tr. 2984 (Pollock). The Commission should reject this proposal because the A&E allocation method proposed by Mr. Pollock uses the class maximum-coincident demand to allocate production and transmission plant, which is inconsistent with FPL's generation plan and does not reflect appropriate cost causation. Tr. 4068-69 (Ender).

SFHHA witness Baron found the 12-CP and 1/13th method "reasonable" for FPL's use as recently as 2002 (Docket 001148-EI, Direct Testimony of Stephen Baron, p. 6). However, in this proceeding, SFHHA rejected the 12-CP and 1/13th methodology and attempted to demonstrate that shifting nearly $183 million in costs onto residential and small commercial rate classes would be appropriate. Tr. 4082 (Ender); Ex. 376. SFHHA's members seek to avoid nearly $183 million in cost responsibility by using the Summer Coincident Peak method for allocating production plant to rate classes and the use of the minimum distribution system ("MDS") for allocating distribution plant. Tr. 4081-82 (Ender).

The Commission should reject the use of the Summer Coincident Peak method proposed by SFHHA because it is inconsistent with FPL's generation planning process and it would allocate no production costs to certain rate classes even though all rate classes receive the benefit of FPL's generating capacity. Tr. 4070 (Ender). The Commission should also reject the use of the MDS method as proposed by SFHHA. The Commission has consistently rejected the use of the MDS method for investor-owned utilities and a compelling case for ignoring such precedent has not been made. The MDS method presumes a type of electric system and a method of planning that is not reflective of FPL's distribution system and it inherently ignores the impacts of diversity and double counting. SFHHA reliance on the use of the MDS method by five utilities in other jurisdictions is unconvincing support for applying the MDS method to FPL. *See* Tr. 4075 (Ender).

B. FPL's Proposed Rate Design Will Improve Rate Parity (Issue 142)

Traditionally, base rate cases have been used as the vehicle for improving the parity among rate classes. Tr. 4185 (Deaton). Likewise, intervenors have repeatedly stressed the importance of using a rate case as an ultimate "true up" mechanism. For FPL, parity among rate classes has not been addressed in over 20 years due to the long period of time that FPL was able to defer the need for a rate increase. *Id.* Therefore, there is a need to address parity as a part of this proceeding, and this filing presents an opportunity to adjust rates and charges to more closely reflect the cost of service. *Id.*

The cost of service study provided by FPL indicates that the parity indices vary by rate class with some class indices well above 100% and others well below 100%. Tr. 4192 (Deaton). FPL has set the target revenues by rate class in order to obtain parity among the classes to the greatest extent possible. Tr. 4193 (Deaton); Ex. 180 (MFR E-14). In a rate case proceeding in

which an adjustment in rates is proposed, the cost of service serves as a guide in evaluating any proposed changes in the level of revenues by rate class. Tr. 4193 (Deaton). More specifically, the allocation of any revenue increase should be assessed in terms of its impact on the parity between rate classes. *Id.* Also, the relationships between rate classes must be maintained to avoid unintentional migration that may impact the rate classes' parity going forward. *Id.* The rates for general service demand classes were considered together to determine target revenues in order to preserve the relationships between the general service demand rates and the corresponding time of use rates, high load factor rates, curtailable service rates, and the seasonal demand riders. *Id.* As shown in Exhibit 165, under FPL's proposed target revenues by rate class, the parity of all rate classes is improved. Tr. 4193 (Deaton); Ex. 165. In fact, with the proposed rates, the number of rate classes within 10% of parity would more than triple in 2010. This results in 99.8% of all FPL customers being within 10% of parity. *Id.*

SFHHA witness Baron and FIPUG witness Pollock argue that the Commission should limit the increase of any rate schedule to 1.5 times the average percent increase. Tr. 1736 (Baron); 2989-90 (Pollock). In prior cases, the Commission has used a guideline or what could be called a "rule-of-thumb" to limit rate increases to an individual rate class to 150% of the retail average base rate increase to mitigate bill impact. Tr. 4210 (Deaton). At the same time however, the Commission has made clear its goal that rates should be based on the fully allocated cost-of-service methodology with the objective of achieving full parity among the rate classes. *Id.* In the FPSC Order that first instituted the Commission's "rule-of-thumb," the Commission clearly indicated that this guideline was designed to mitigate the impact of the total customer bill, not out of some general principle of slowly moving toward parity and allowing cross-subsidization to continue. The Commission stated, "[a]ll parties in this proceeding agree

that the revenue increase should be allocated between classes so as to move toward an equalized rate of return for all classes. While we still embrace this concept, ***we feel the impact on customers' bills must be considered in allocating revenue***" (emph. added). Tr. 4210 (Deaton); Docket No. 810002, Order No. 10306 pp. 106-07.

The Commission has recognized the need to deviate from the "rule of thumb." In a Gulf Power rate case, the Commission did just that, stating:

> [W]e are departing from our policy in previous cases of limiting the increase to any one class to not more than 1.5 times the system average increase. Were we to apply that policy in this case, some classes whose present rates of return are above parity would receive an increase. Thus, the greater equity lies in allocating the increase to those rate classes with substantially lower rates of return.

Docket 810136-EU, Order No. 10557, pp. 29-30; Tr. 4211 (Deaton). The Commission's reference to "the greater equity" means that it is inherently fair and equitable to align each rate class's revenues with its cost of service. Tr. 4212 (Deaton). FPL's proposal does just that. Limiting the revenue increase for any individual rate class to a certain threshold may appear in some situations to be equitable, but the benefits of doing so should be balanced against the added revenue burden other customers would be required to bear and the disparities in the rates of return by rate class that would continue as a result. *Id.* As the Commission found in the Gulf case, the revenue burden on other customers and the parity disparities by rate class can be such that the use of the "rule-of-thumb" is inequitable. *Id.*

If the "rule-of-thumb" is applied, as shown in column (e) of Exhibit 379, $43 million would be shifted from some rate classes to other rate classes. Tr. 4212 (Deaton); Ex. 379. The residential (RS-1) class would end up shouldering the bulk of the subsidization, as target revenues would need to be increased by $28 million. Tr. 4212 (Deaton). The GSD-1 rate class would be allocated most of the remaining subsidization as it would receive an additional increase

of $11 million. *Id.* The GSLD-1 and HLFT-2 rate classes would receive the most benefit in a $33 million reduction in target revenues. *Id.* Additionally, because large commercial and industrial customers will receive the bulk of the fuel efficiency savings it is only fair they should pay their share of the costs that produce those benefits. Tr. 4239 (Deaton). In short, an across the board application of the "rule-of-thumb" ignores basic concepts of equity.

FPL's approach of moving to parity is preferable as it strives to eliminate subsidization among the rate classes. Tr. 4212 (Deaton). This is not only consistent with prudent utility rate-making concepts, but also with the Commission's goals regarding parity. Tr. 4212-13 (Deaton). FPL's approach considers the overall impact on the customer's bill, which for most customers will be lower in 2010. Tr. 4213 (Deaton). Thus, this case represents a unique scenario in which the necessary base rate increase and full parity between the rate classes can be implemented to the greatest extent practical, with minimal impact to customers. *Id.*

XV. PROPOSED SERVICE CHARGES AND OTHER TARIFF REVISIONS

A. FPL's Proposed Service Charges are Appropriate (Issues 144 and 145)

It has been over 20 years since the cost basis for FPL's service charges has been evaluated. Tr. 1565, 1572 (Santos). There is a clear need to ensure each transaction is fully cost-based and that customers do not subsidize service charges through base rates. Tr. 1565-66 (Santos). In addition, for certain charges, there is also a need to create an incentive for "cost-causers" to improve behavior so that other customers are not unduly burdened with higher costs. Tr. 1566 (Santos). FPL is proposing to adjust the charges for initial connects on new premises, connects/disconnects on existing premises, reconnects after non-payment, field collections on past due accounts, and overhead or underground temporary service to reflect the cost of these transactions. Tr. 1566 (Santos); Ex. 180 (MFR E-13b). FPL is proposing that the service

charges for connects/disconnects on existing premises, reconnects after non-payment, field collections on past due accounts, and overhead or underground temporary service be based on the full updated projected cost. Tr. 1566 (Santos). However, for the initial connects/disconnects on new premises, FPL is proposing the service charge be set at a lower amount of $100.00 versus the full cost of $135.95. Tr. 1566-67 (Santos). FPL believes that a service charge of $100.00 is a reasonable charge, based on the work required for the initial connect/disconnect activity. Further, the proposed lower, non-cost based amount will help to reduce the impact of the significant change from the current charge of $14.88. Tr. 1567, 1639-40 (Santos).

FPL is proposing to modify its returned payment charge to reflect the governing Florida Statutes. Tr. 1567 (Santos). FPL currently charges $23.24 per returned payment; however, Section 68.065, Florida Statutes, specifies a tiered fee structure based on the returned payment amount. *Id.* Consistent with Section 68.065, FPL's proposed return payment charge is as follows: $25 if the payment amount does not exceed $50; $30 if the payment amount exceeds $50 but does not exceed $300; or $40 if the payment amount exceeds $300 or 5% of the payment amount, whichever is greater. Tr. 1567 (Santos). This proposed change would also be consistent with the Commission-approved return check charge for TECO, Progress Energy Florida, Gulf Power and Florida Public Utilities Company. *Id.* No intevenor disputed this charge.

In addition, FPL currently charges 1.5% for late payments, but is proposing the greater of 1.5% or $10. Tr. 1567 (Santos). Driven largely by the deteriorating economy, FPL has seen an increase in the percentage of customers with late payments from 21% in 2006 to 24% in 2008. Tr. 1567-68 (Santos). This amounts to an increase of 150,000 customers, on average, per month. Tr. 1568 (Santos). Other industries and other Florida utilities use late payment charges greater than $10 to encourage customers to pay on time. Tr. 1568, 1638 (Santos). FPL believes a $10

minimum late payment charge will provide the appropriate incentive for customers to improve payment behavior. Tr. 1567-68, 1638 (Santos). However, if the Commission does not accept FPL's position with respect to the new fee's effect on revenues, FPL would withdraw its late payment charge proposal.

B. FPL's Proposed Tariff Revisions/Cancellations Should be Approved (Issues 148, 150, 152, 154-157, 159-167, 170, 173a)

The energy and customer charges reflected on FPL's revised tariff that result from its proposed rate design are fair and reasonable, and should be approved. FPL has also proposed changes to the SL-1 and PL-1 lighting rate schedules. Tr. 4196 (Deaton); Ex. 180 (MFR E-14). FPL is proposing to close the re-lamping option on the SL-1 and OL-1 tariffs for new streetlight installations. Tr. 4196 (Deaton). This option is currently chosen for less than two percent of all existing streetlights and outdoor lights. Tr. 2263-64 (Spoor). Customers choosing this option often believe that FPL is responsible for all maintenance instead of just re-lamping, which often results in customer dissatisfaction. *Id.*; Tr. 4196 (Deaton). FPL believes that removing this option – and retaining the schedule by which FPL is in fact responsible for all maintenance – will make maintenance responsibilities more clear. *Id.* FPL is also proposing to remove the 10-year and 20-year facilities payment options from the PL-1 tariff due to the fact that the 10-year option is rarely used, and collection issues often occur when the original customer requesting the payment option (e.g., a developer) transfers payment responsibility to another party (e.g., a homeowner's association). Tr. 4196 (Deaton).

FPL is proposing to close the Wireless Internet Electric Service ("WIES") rate to new customers. Tr. 4196 (Deaton). Currently, FPL only has 18,240 kilowatt hours of load on the WIES rate. *Id.* The tariff provides that FPL may withdraw the rate and transfer existing customers to the otherwise applicable rate schedule if the total annual energy under this rate

schedule does not meet a minimum threshold of 360,000 kWh by June 30, 2004. *Id.* Rather than withdraw the rate and transfer the existing customers, FPL proposes to close the rate schedule to new customers. Tr. 4196-97 (Deaton). These tariff modifications were not disputed by any party.

C. AFFIRM's Request to Develop a New Time of Use Rate Should be Rejected (Issue 168)

The Commission should reject AFFIRM's request to develop a new time of use ("TOU") rate for its members. FPL designs its TOU rates consistent with Commission direction. TOU rates are designed to be revenue neutral to the otherwise applicable rate that would be available to a customer. Tr. 4335-36 (Deaton). In other words, if an average customer were on the GS-1 rate or the TOU equivalent GST-1 rate, they would pay the same price. The on-peak and off-peak energy units (kWh) are determined using the class average on-peak allocations, while the energy charges are based on the per-unit energy costs determined by class in the cost-of-service study. The per-unit demand costs are added to the on-peak energy charge, while the off-peak energy charge represents the unit energy cost only. *Id.* The off-peak rates are set lower than the on-peak rates to encourage energy usage during the off-peak hours. Tr. 4336 (Deaton). AFFIRM has not presented any compelling evidence demonstrating that FPL's method of developing TOU rates is infirm.

AFFIRM claims that the only rate options available to it are the General Service Demand (GSD-1), General Service Demand TOU (GSDT-1), and the Seasonal Demand TOU Rider (SDTR), which it deems unsatisfactory. Tr. 3342 (Klepper). But these are not the only options available to AFFIRM's members. It appears that AFFIRM has not considered use of FPL's High Load Factor Time-of-Use ("HLFT") rate. Tr. 4224 (Deaton). Many customers with 24-hour operations similar to the operations of the AFFIRM members enjoy savings under the HLFT

rate. *Id.* In sum, FPL already offers several rate alternatives that provide customers opportunities to lower their costs through efficient energy usage. Tr. 4219 (Deaton).

Additionally, AFFIRM requested through the testimony of Mr. Klepper that FPL offer to AFFIRM members a form of conjunctive or aggregated billing that would violate Commission Rule 25-6.102, Fla. Admin. Code. *See* Tr. 3348-50 (Klepper). This rule explicitly prohibits conjunctive billing. Tr. 4219 (Deaton). This is a long-standing Commission rule and the Florida Legislature has seen fit to provide only a limited exception to this rule for customers who also generate electricity from agricultural waste.[26] *Id.* The AFFIRM request would also discriminate against similarly-situated customers that are not part of a chain. Tr. 4219-20 (Deaton). Section 366.07, Florida Statutes, prohibits unjustly discriminatory or preferential pricing. *Id.* Therefore, the Commission should not require multi-location rates as requested by AFFIRM.

XVI. CONCLUSION

Granting FPL's base rate requests will ensure continued excellent service at a low cost to FPL's customers. If FPL's base rate request is granted, the typical residential customer monthly bill will still decrease by approximately $6 – from $110.72 in December 2009 to $104.76 in March 2010 – a decrease of 5.4%. Coupled with approving the subsequent year adjustment and the GBRA mechanism, such an order will benefit customers by:

- Providing fair, just and reasonable rates – among the very lowest rates in Florida – not just for adequate and reliable service, but for excellent quality utility service;
- Keeping FPL financially strong and able to provide customers with safe, reliable electric service, at low cost, over the long term;
- FPL's weighted average cost of capital will be even lower than that approved for TECO in its recent rate proceeding;

[26] *See* Section 366.91(7), Florida Statutes.

- Providing FPL the capability to further improve the system serving customers, which improvements will deliver tens of billions of dollars in fuel cost savings for customers, repaying the cost of new investment for customers many times over. These cost savings improvements will be accompanied by substantial environmental benefits including millions of tons less carbon dioxide, lower fossil fuel usage, and greater fuel diversity;

- Permitting FPL to attract capital on reasonable terms and make the investments in infrastructure, including major generation projects that have been approved by the Commission and that will provide clean, efficient generation with billions of dollars in fuel cost savings;

- Better protecting FPL customers from the financial effects of major storm damage to FPL's system; and

- Continuing Florida's history of constructive regulation which will help control costs of service, especially financing costs, for all of Florida's utilities.

For the foregoing reasons, as supported by the evidence and stated in this brief, FPL should be granted the following relief:

(i) an increase in base rates and charges sufficient to generate additional annual gross revenues of $959 million beginning in 2010;

(ii) an increase in base rates and charges sufficient to generate additional annual gross revenues of $237 million beginning in January 2011;

(iii) the continued use of the GBRA mechanism to reflect revenue requirements associated with generation additions for which a determination of need has been granted, such as for WCEC Unit 3 in 2011, or in the alternative, an increase in base rates and charges sufficient to generate additional annual gross revenues of $182 million effective upon the commercial operation of WCEC Unit 3; and

(iv) approval of other Company adjustments shown in MFRs B-2 and C-3, including all associated regulatory accounting;

(v) approval of an annual accrual of $150 million to the storm reserve, to the extent such amount is included in the base rate relief granted pursuant to (i) and (ii) above;

(vi) approval of the base rate adjustment mechanism to account for the recovery of any prudent nuclear plant costs not recovered pursuant to the Nuclear Cost Recovery rule; and

(vii) such other and further relief as is supported by the record.

PART TWO: FPL'S STATEMENT OF ISSUES AND POSITIONS

2010 PROPOSED TEST PERIOD

ISSUE 1: Does the Commission have the legal authority to approve a base rate increase using a 2010 projected test year?

FPL: *Yes. The Florida Supreme Court determined in *Southern Bell Tel & Tel. Co. v. Public Service Comm'n,* 443 So.2d 92, 97 (Fla. 1983) that "[n]othing in the decisions of this Court or any legislative act prohibits the use of a projected test year by the Commission in setting a utility's rates. We agree with the Commission that it may allow the use of a projected test year as an accounting mechanism to minimize regulatory lag. The projected test period established by the Commission is a ratemaking tool which allows the Commission to determine, as accurately as possible, rates which would be just and reasonable to the customer and properly compensatory to the utility." Consistent with this authority, the Commission's rule on test year notification specifically contemplates the use of a projected test year, and the Commission has permitted the use of projected test years in numerous base rate proceedings.* *See* FPL Brief, pp. 16-18.

ISSUE 2: Is FPL's projected test period of the 12 months ending December 31, 2010, appropriate?

FPL: *Yes. FPL is currently operating under the 2005 Stipulation and Settlement Agreement (Settlement) that expires at December 31, 2009. FPL's petition requests an increase in base rates upon the Settlement's expiration, effective January 4, 2010. Accordingly, 2010 is the most appropriate year to evaluate the Company's projected revenue requirement to afford the appropriate match between revenues and revenue requirements for 2010. Also, this test year coincides with the commencement in 2010 of new depreciation rates.* *See* FPL Brief, pp. 16-18.

ISSUE 3: Are FPL's forecasts of customers, kWh, and kW by revenue and rate classes for the 2010 projected test year appropriate?

FPL: *Yes. The 2010 forecast of customers, kWh, and kW by rate class are consistent with the sales and customer forecast by revenue class and reflect the particular billing determinants specified in each rate schedule.* *See* FPL Brief, p. 101.

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?

FPL: *Yes. Section 366.072(2), Florida Statutes, and Rule 25-6.0425, F.A.C., expressly authorize subsequent year adjustments. The Commission has authority

under *Southern Bell Tel & Tel. Co. v. Public Service Comm'n,* 443 So.2d 92 (Fla. 1983) to approve a rate increase to go into effect in 2011, based on a 2011 test year. This authority was confirmed in *Floridians United for Safe Energy, Inc. v. Public Service Comm'n*, 475 So. 2d 241 (Fla. 1985).* *See* FPL Brief, p. 19.

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

FPL: *Yes. As discussed in Issue 4, the Commission has statutory and rule authority to approve subsequent year adjustments. On numerous previous occasions, the Commission has granted subsequent year rate relief. A subsequent year adjustment in 2011 is an accepted and recognized method of addressing FPL's cost increases and earnings deterioration in 2011.* *See* FPL Brief, pp. 18-21.

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

FPL: *Yes. FPL has requested an additional base rate increase effective January 1, 2011 to avoid an additional base rate proceeding in 2010. Without the additional rate adjustment, FPL's return on equity is projected to decline from 12.5% in 2010 to 10.7% in 2011. FPL's 2011 revenue requirements forecast was developed, reviewed and approved using the same rigorous process as was used for the 2010 test year. It is reasonable and reliable for setting rates.* *See* FPL Brief, p. 20.

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

FPL: *Yes. The 2011 forecast of customers, kWh, and kW by rate class are consistent with the sales and customer forecast by revenue class and reflect the particular billing determinants specified in each rate schedule.* *See* FPL Brief, p. 20.

GENERATION BASE RATE ADJUSTMENT

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

FPL: *Yes. The GBRA is a proven and efficient regulatory ratemaking tool, and aligns the timing of the fuel price reductions with the required base increase thereby sending customers the appropriate price signals. Its use will avoid costly and lengthy rate proceedings to recognize in rates the costs of new generation, the need for which has been reviewed and approved by the Commission in a need proceeding.* *See* FPL Brief, p. 22-23.

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

FPL: *If the Commission approves FPL's request to extend the Generation Base Rate Adjustment (GBRA) mechanism, the cost of qualifying generator plant additions should be determined in accordance with the process currently in place by virtue of the Commission's Order No. PSC-05-0902-S-EI approving the 2005 settlement agreement. Such cost will not exceed the cost provided in the need determination proceeding absent a separate request and proceeding initiated by FPL.* *See* FPL Brief, pp. 23-24.

ISSUE 10: Intentionally Blank

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

FPL: *The GBRA should be designed consistent with paragraph 17 of the 2005 Stipulation and Settlement, as approved by Order No. PSC-05-0902-S-EI.* *See* FPL Brief, pp. 23-24.

ISSUE 12: If the Commission approves a GBRA mechanism 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?

FPL: *No. The continued use of GBRA will not cause FPL to exceed its approved ROE range. GBRA is designed to recover the base revenue requirements of a qualifying generating facility not already reflected in base rates when it enters commercial operation. The GBRA revenue requirements include the Commission's determined rate of return, ensuring a plant's earnings are appropriate. Further, FPL's overall earnings are continuously reviewed by the Commission, so an earnings test is unnecessary.* *See* FPL Brief, p. 25.

ISSUE 13: If the Commission approves a GBRA mechanism for FPL, how should FPL be required to implement the GBRA?

FPL: *The GBRA should be implemented on the same basis as was utilized in the Turkey Point Unit 5 filing in Docket No. 060001-EI and the WCEC units 1 and 2 filing in Docket No. 080001-EI.* *See* FPL Brief, pp. 23-24, 26-27.

ISSUE 14: If the Commission chooses not to approve the continuation of the GBRA mechanism, 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?

FPL: *If FPL is denied its request for GBRA, the estimated first year revenue requirements for WCEC 3 would need to be reflected in the subsequent year adjustment request for 2011.* *See* FPL Brief, pp. 26-27.

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?

FPL: *Yes; however, FPL does not oppose OPC's method of addressing transmission related costs and revenues for long-term firm non-jurisdictional transmission service contracts. If OPC's method is adopted, jurisdictional rate base should be reduced by $261,720,000 for 2010 and $286,794,000 for 2011; and jurisdictional NOI should be reduced by $6,867,000 for 2010 and $7,161,000 for 2011. Jurisdictional revenue requirements should be reduced by $22,975,000 for 2010 and $26,615,000 for 2011.* *See* FPL Brief, pp. 104-05.

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

FPL: *Subject to the adjustments listed on Exhibits 358, 481, 511 and 514, the appropriate jurisdictional separation of costs and revenues between the wholesale and retail jurisdictions is that filed by FPL. The separation factors filed by FPL were developed consistent with the Commission-provided instructions for MFR E-1 and with the methodology used in the Company's clause adjustment fillings and surveillance reports.* *See* FPL Brief, pp. 104-05.

QUALITY OF SERVICE

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

FPL: *Yes. FPL delivers superior reliability and excellent customer service. FPL's fossil fleet is among the industry leaders for reliability, availability, and generating efficiency. Emissions reductions continue through cleaner, highly efficient combined cycle technology. Compared to other utilities, FPL's Nuclear Generation operational reliability and performance has ranged from excellent to average. Distribution reliability, as measured by SAIDI, has been the best among major Florida IOUs for four of the last six years and for the last decade has been 45% better than the EEI industry average. Transmission SAIDI has been among the best in the industry, delivering top decile or best-in-class performance in two of the last four years. FPL's Customer Service performance has been in the top

quartile in national benchmarking studies of operational effectiveness and efficiency, and was awarded the ServiceOne Award for six consecutive years.* *See* FPL Brief, pp. 5-8.

DEPRECIATION STUDY

ISSUE 18: Intentionally Blank

ISSUE 19A: What are the appropriate capital recovery schedules?

FPL: *The appropriate capital recovery schedules are incorporated in the depreciation study FPL filed on March 17, 2009.* *See* FPL Brief, p. 68.

ISSUE 19B: Is FPL's calculation of the average remaining life appropriate?

FPL: *Yes. The appropriate average remaining lives are those incorporated in the depreciation study FPL filed on March 17, 2009.* *See* FPL Brief, p. 57.

ISSUE 19C: What are the appropriate depreciation parameters (remaining life, net salvage percentage and reserve percentage) and resulting rates for each production unit (including but not limited to coal, steam, combined-cycle, etc)?

FPL: *The appropriate depreciation parameters and resulting rates for each production units are incorporated in the depreciation study FPL filed on March 17, 2009, subject to the depreciation adjustments listed on Exhibit 358.* *See* FPL Brief, pp. 56-62.

ISSUE 19D: What are the appropriate depreciation parameters (remaining life, net salvage percentage and reserve percentage) and resulting rates for each transmission, distribution, and general plant account?

FPL: *The appropriate depreciation parameters and resulting rates for each transmission, distribution, and general plant account are incorporated in the depreciation study FPL filed on March 17, 2009, subject to the adjustments listed on Exhibits 358, 481, and 511.* *See* FPL Brief, pp. 56-62.

ISSUE 19E: 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?

FPL: *Based on the application of depreciation rates and principles previously approved by the Commission, FPL's theoretical reserve imbalance is a $1.245 billion theoretical reserve surplus.* *See* FPL Brief, p. 63.

ISSUE 19F: What, if any, corrective reserve measures should be taken with respect to the imbalances identified in Issue 19E?

FPL: *The theoretical reserve surplus should be addressed through the Commission's long-established policy of using the remaining life depreciation methodology. Under that methodology, the theoretical reserve surplus is currently reducing revenue requirements by $216 million per year. Any further reductions from accelerating amortization of the theoretical reserve surplus would come at the cost of larger, long-term increases in costs to be borne by customers.* *See* FPL Brief, pp. 63-68.

ISSUE 19G: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

FPL: *The implementation date should be January 1, 2010.* *See* FPL Brief, pp. 56-57.

ISSUE 19-39: Intentionally Blank

FOSSIL DISMANTLEMENT COST STUDY

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

FPL: *Yes. The current-approved annual dismantlement accrual is $15,321,113. FPL's 2009 dismantlement filing supports an increase to $21,567,577.* *See* FPL Brief, p. 70.

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

FPL: *The reserve re-allocations requested by FPL in its fossil dismantlement study should be approved.* *See* FPL Brief, p. 70-72

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

FPL: *The appropriate annual provision for dismantlement is $21,567,577, based on the information presented in FPL's 2009 dismantlement filing.* *See* FPL Brief, pp. 70-72.

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?

FPL: *Yes. As the Commission noted in Order No. 24741: "While the timing of ultimate removal certainly could remain a question, there will undoubtedly come a time this action will become necessary and site restoration will likewise be required." FPL's history of dismantling power plants includes partial dismantlement associated with re-powerings. However, the assumption that every site will eventually be returned to Greenfield status is reasonable.* *See* FPL Brief, pp. 70-72.

ISSUE 44: In future dismantlement studies filed with the Commission, should FPL consider alternative demolition approaches?

FPL: *FPL consistently considers the appropriateness of alternative demolition approaches in its dismantlement studies and will continue to do so in future dismantlement studies.* *See* FPL Brief, pp. 70-72.

RATE BASE

ISSUE 45: Intentionally Blank

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?

FPL: *No. Both over-recoveries and under-recoveries should be removed from rate base, because they both pay or earn a return through the appropriate cost recovery clause mechanism.* *See* FPL Brief, p. 98.

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?

FPL: *Yes. FPL has been focused on AMI solutions for several years, and has a deployment plan in place to install "Smart Meters" for over four million residential and small/medium business customers. The costs associated with AMI are based on this deployment plan and have been properly included in rate base for 2010 and 2011.* *See* FPL Brief, p. 98.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358 and Exs. 481, 511, FPL's 2010 Plant in Service amount is $27,818,749,000 and the 2011 Plant in Service amount is $29,043,221,000. These levels are appropriate.* *See* FPL Brief, p. 50.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358 and Exs. 481, 511, FPL's 2010 level of accumulated depreciation is $12,416,252,000 and the 2011 level of accumulated depreciation is $13,115,003,000. These levels are appropriate.* *See* FPL Brief, pp. 97-98.

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?

FPL: *Yes. On January 1, 2010 the pipeline should be transferred from the deferred debit account to CWIP. On October 6, 2009 the Commission voted to deny the need for the Florida EnergySecure Line. FPL's proposed treatment remains appropriate because transferring the pipeline to this CWIP account will keep the project out of rate base, pending the final disposition of this project.* *See* FPL Brief, p. 97.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358, FPL's 2010 level of CWIP is $691,380,000 and 2011 level of CWIP is $771,921,000. These levels of CWIP are appropriate.* *See* FPL Brief, p. 97.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358, FPL's 2010 level of Property Held for Future Use is $70,302,000 and 2011 level of Property Held for Future Use is $67,518,000. These amounts are appropriate.* *See* FPL Brief, p. 97.

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?

FPL: *Yes. FPL's proposed accruals are appropriate for the 2010 and 2011 projected test years. These amounts are in accordance with Order No. PSC-02-055-PAA-EI

and consistent with prior Commission findings. FPL's proposed adjustment should be approved.* *See* FPL Brief, p. 99.

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?

FPL: *Yes. The nuclear fuel assets should be included in rate base like any other investment providing utility service to customers.* *See* FPL Brief, p. 36.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358, FPL's 2010 level of Nuclear Fuel is $370,962,000 and 2011 level of Nuclear Fuel is $404,334,000. These levels of Nuclear Fuel are appropriate.* *See* FPL Brief, p. 97.

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

FPL: *Yes. In Order No. PSC-09-0013-PAA-EI, Docket No. 070432-EI, issued on January 5, 2009, the Commission granted FPL recovery of the FGPP costs and provided for amortization of $34.1 million of these costs over a five-year period beginning on January 1, 2010.* *See* FPL Brief, p. 97.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358, FPL's 2010 level of Working Capital is $217,039,566 and 2011 level of Working Capital is $330,076,576. These levels of Working Capital are appropriate.* *See* FPL Brief, p. 99.

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?

FPL: *Yes. After accounting for the adjustments in Ex. 358 and Exs. 481, 511, FPL's projected 2010 rate base is $16,752,180,637 and projected 2011 rate base is

$17,502,066,627. FPL has demonstrated that its rate base is appropriate.* *See* FPL Brief, pp. 96-100.

COST OF CAPITAL

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?

FPL: *The appropriate amount of accumulated deferred income taxes to be included in the capital structure on a jurisdictionally adjusted basis is $2,886,174,000 ($2,723,327,000 per original filing) for the 2010 projected test year. For the projected 2011 subsequent test year, the jurisdictionally adjusted amount is $2,771,888,000 ($2,655,102,000 per original filing).* *See* FPL Brief, p. 52.

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?

FPL: *The appropriate amount for the unamortized investment tax credits to be included in the capital structure on a jurisdictionally adjusted basis is $5,418,220 ($56,983,000 per original filing) for the 2010 projected test year and $2,481,628 ($161,290,000 per original filing) for the 2011 test year. The appropriate cost rate to be used for unamortized investment tax credits is 9.71% for 2010 and 9.74% for 2011, after making the adjustments on Ex. 358.* *See* MFR D-1a.

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?

FPL: *The appropriate cost rate for short-term debt is 2.96% for 2010 and 4.61% for 2011, which includes interest charges related to commercial paper borrowings based on the 30 day forward LIBOR curve as of November 30, 2008 and fixed costs related to maintaining back-up credit facilities to support FPL's commercial paper program.* *See* FPL Brief, p. 29

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?

FPL: *The appropriate cost rate for long-term debt is 5.55% for 2010 and 5.81% for 2011. It is calculated by taking the weighted average cost rate of the Company's existing debt and projected debt offerings in 2009, 2010 and 2011. The projected

debt issuances for 2009, 2010 and 2011 utilized projected rates derived from the Blue Chip Financial Forecasts.* *See* FPL Brief, p. 29-30.

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?

FPL: *Yes. Subject to the adjustments listed on Exhibits 358 and 481, 511, the 2010 and 2011 rate base and capital structure have been reconciled appropriately.* *See* FPL Brief, pp. 31-34.

ISSUE 70: Has FPL appropriately described the actual 59.6% 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?

FPL: *The issue mischaracterizes FPL's actual capital structure. FPL does not have an actual equity ratio of 59%. Before any Commission Adjustments (and before accounting for the Company adjustments shown in Exhibits 358, 481 and 511), FPL's actual equity ratio per books is approximately 55.6% based on a 13-month average as shown on Exhibit 368. FPL's regulatory capital structure, which accounts for Commission-required specific adjustments, is approximately 59% (investor sources only). In assessing the appropriate capital structure for FPL, it is essential to recognize the debt-equivalence of purchased power obligations, consistent with financial market expectations and impacts. This results in an adjusted equity ratio of 55.8%, which is the percentage of equity to which FPL actively manages its capital structure. FPL is not asking to impute or project equity that is not actually invested in the Company.* *See* FPL Brief, pp. 31-34.

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?

FPL: *FPL's capital structure should remain at approximately 55.8% equity (as a percentage of investor sources of funds, on an adjusted basis). Maintaining FPL's capital structure will indicate to the capital markets the Commission's continued commitment to FPL's financial integrity, will provide the financial flexibility and resilience needed to absorb unexpected financial shocks, and will support FPL's estimated $16 billion in capital investment and construction requirements over the next five years.* *See* FPL Brief, pp. 31-34.

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?

FPL: *Subject to the adjustments listed on Exhibits 358 and 511, the capital structure presented on MFR D-1a for the 2010 test year and 2011 subsequent test year is appropriate. This existing capital structure has supported high quality service at low rates, while enabling FPL to weather financial challenges. Maintaining this capital structure will indicate to capital markets the Commission's commitment to FPL's financial integrity, providing the ability to attract capital required to meet customers' needs.* *See* FPL Brief, pp. 34-35.

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?

FPL: *The Commission should authorize 12.5% as the return on common equity for both 2010 and 2011. Granting FPL's requested return on equity will appropriately take into account overall utility industry risks, as well as FPL's company-specific risk factors, such as (i) the need to invest $16 billion to provide service over the next five years; (ii) the Company's operation of nuclear plants and development of new nuclear plants; (iii) high exposure to natural gas price volatility and related hedging requirements; and (iv) FPL's uniquely high level of hurricane risk exposure both in terms of geographical distribution of assets and likelihood of hurricane strikes. Granting FPL's requested return on common equity is critical to maintaining FPL's financial strength and flexibility, and will help FPL attract the large amounts of capital that are needed to serve its customers on reasonable terms.* *See* FPL Brief, p. 37.

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?

FPL: *After accounting for the adjustments included on Ex. 358, the weighted average cost of capital is 7.85% for 2010 and 8.06% for 2011. The associated components, amounts and cost rates are reflected in FPL's MFR D-1a for 2010 and 2011.* *See* FPL Brief, p. 54.

NET OPERATING INCOME

ISSUE 82: What are the appropriate inflation and customer growth for use in forecasting?

A. For the 2010 projected test year?

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

FPL: *The appropriate inflation, customer growth and other trend factors for use in forecasting for the 2010 projected test year and the 2011 subsequent projected test year are those provided in MFR F-8. These factors were appropriately developed and represent reasonable expectations regarding inflation, customer growth and other trend factors.* *See* FPL Brief, p. 101.

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?

FPL: *Yes. Capacity charges associated with St. Johns River Power Park (SJRPP) and certain capacity related revenues that are currently in base rates should be removed from base rates and included in the capacity clause in order to be consistent with the recovery mechanism for other capacity arrangements and to comply with the Commission's decision in Order No. 25773, Docket No. 910794-EQ.* *See* Tr. 3547.

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?

FPL: *Yes. FPL has made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause, subject to the adjustments listed on Exhibit 358.* *See* MFR B-2.

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?

FPL: *Yes. FPL has made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause, subject to the adjustments listed Exhibit 358.* *See* MFR B-2.

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?

FPL: *Yes. FPL has made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause, subject to the adjustments listed on Exhibit 358.* *See* MFR B-2.

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?

FPL: *Yes. FPL has made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause, subject to the adjustments listed on Exhibit 358. * *See* MFR B-2.

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?

FPL: *Yes. The proposed Company adjustment to the 2010 projected test year and the 2011 subsequent projected test year for C/I Demand Reduction Rider Incentive Credits and Offsets is appropriate. These revenues were inadvertently not included in the per books forecast of operating revenues and should be included as a Company adjustment.* *See* Tr. 3642.

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?

FPL: *Yes. Late Payment Fee revenues should be increased by $751,895 in 2010 and $775,931 in 2011, with an offsetting decrease of $7,386,000 in 2010 and $7,001,000 in 2011 for adjustments reflected in Ex. 358. No other adjustment is appropriate.* *See* FPL Brief, p. 102.

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?

FPL: *The only adjustments necessary to FPL's revenue forecast are provided on Exhibit 358.* *See* FPL Brief, pp. 100-03.

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

FPL: *Yes. After accounting for the adjustments on Ex. 358, FPL's 2010 level of Total Operating Revenue is projected to be $4,074,454,000 and 2011 level of Total Operating Revenue is projected to be $4,134,141,000. FPL's projected levels of Total Operating Revenues are appropriate for the 2010 projected test year and the 2011 subsequent projected test year.* *See* FPL Brief, pp. 100-01.

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?

FPL: *Yes. FPL has appropriately reflected the amounts for charitable contributions below the line for the 2010 test year and the 2011 subsequent test year. Therefore, no adjustment to remove charitable contributions from net operating income is required.* *See* MFR C-18.

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?

FPL: *No. FPL Historical Museum expenses are properly classified as operating expenses above the line. The museum acts as an FPL archive and is utilized in the provision of electric service to customers. For example, archived materials were recently utilized in the permitting of FPL's conversion projects.* *See* FPL Brief, p. 94.

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?

FPL: *Yes. Although the process of allocating aviation costs was shown to be appropriate, FPL removed the full amount of aviation costs ($7,647,481 for 2010 and $7,812,923 for 2011) from this base rate increase request as a concession and to assist in the completion of the hearing. This has the effect of reducing FPL's originally requested rate base by $25,414,298 in 2010 and $33,316,834 in 2011 as well as reducing the originally requested Net Operating Income by $3,725,925 in 2010 and $4,221,520 in 2011 for the purposes of calculating the revenue requirements.* *See* FPL Brief, p. 85.

ISSUE 95: Are the cost savings associated with AMI meters appropriately included in net operating income?

A. For the 2010 projected test year?

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

FPL: *Yes. FPL has included the appropriate cost savings associated with AMI in 2010 and 2011. The savings for AMI only occur as the meters are deployed, and after all components and supporting processes are fully developed, tested and implemented. The testimony of intervenors suggesting savings be in direct proportion to the number deployed by year is unrealistic.* *See* FPL Brief, pp. 93-94.

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?

FPL: *After accounting for the adjustments in Exhibit 358, the appropriate level of Bad Debt Expense is $29,903,552 for 2010 and $23,484,865 for 2011.* *See* FPL Brief, pp. 92-93.

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?

FPL: *Yes. The Company adjustment removes estimated bad debt expense related to clause revenues from base rates and includes the clause related bad debt expense with the clause revenues giving rise to the bad debt exposure itself. Beginning in 2010, FPL's bad debt expense associated with clause revenue would be recovered through the clauses. The Company adjustment is subject to the adjustments listed on Exhibit 358.* *See* FPL Brief, pp. 92-93.

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

FPL: *No. FPL's payroll budget is a reasonable projection FPL's requirement to most efficiently deliver on its customer service and reliability commitments. FPL's staffing-level forecasts are reasonable estimates of what is required to do work based on optimal staffing levels. Every effort is made to fill forecasted positions, but a number of factors made it increasingly difficult for FPL, including: massive fluctuations in the South Florida housing market; limited availability of technical and engineering professionals; workforce demographics; and the fiscal constraints FPL has placed on the competitiveness of pay and benefits. These factors have historically resulted in the hiring process lagging behind expectations. This does not mean FPL does not incur costs corresponding to the budgeted headcount in ensuring that the budgeted work is completed. FPL's historical experience is that vacancies result in actual gross payroll exceeding the budget projections. This, not headcount, is the appropriate measure of FPL's true costs.* *See* FPL Brief, p. 88.

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

FPL: *No. FPL's forecasted productivity, as measured by payroll per customer, is reasonable and reflects lower growth rates than 2006 through 2008. Moreover, total cost performance, rather than performance on only one cost component, is more important to customer bills. FPL has demonstrated superior cost

performance over a sustained period of time. Total non-fuel O&M expenses were best-in-class among 28 peer companies over the period 1998-2007, and expense levels on a per customer basis were about half of the peer group average over this period. FPL's corporate commitment to superior operating efficiency has put FPL in the enviable position of being a low-cost provider. FPL cannot be expected to achieve substantial additional operating cost savings beyond those which it has already achieved. In order to ensure that customers continue to receive continued exemplary service, O&M expenses must reflect a level commensurate with necessary operational improvements.* *See* FPL Brief, p. 94.

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

FPL: *Yes. The requested head count increase represents the employees needed to support adequate staffing levels to ensure the safe and reliable operation of FPL's nuclear plants. The specialized requirements for nuclear experience mandates that experienced nuclear operators train employees. It can take as long as 8-9 years to develop an operator candidate into a senior reactor operator. FPL will need to hire the forecasted amounts to plan for attrition and retirements, which are inevitable.* *See* FPL Brief, p. 96.

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?

FPL: *There should be no adjustment for either year, except for the adjustments made by FPL in Exhibits 481, 511 and 514. The projected level of compensation and benefits expense for both the 2010 test year and 2011 subsequent test year is appropriate and reasonable. The reasonableness is demonstrated in a number of ways, including comparison of FPL salaries to the relevant comparative market, comparison of growth of the total costs to principle inflation indices, comparison of FPL's salary cost and productivity measures to those of similar utilities, and comparison of relative value of benefits programs to other utility and general industry companies. Employee compensation is a necessary cost of providing safe, efficient and reliable service. FPL's overall incentive compensation program aligns shareholder and customer interests.* *See* FPL Brief, p. 88.

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?

FPL: *There should be no adjustments for either year, except for the adjustments made by FPL in Exhibit 481 and 511. The pension amounts were estimated from an actuarial calculation for the 2010 and 2011 FPL Group plan costs and related

obligations using consistent methodologies and reasonable, supportable assumptions.* *See* Tr. 5556, 5564.

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?

FPL: *No. The original policy was purchased in a non-base rate setting year, and the purchase was never included in FPL's Environmental Cost Recovery Clause. Accordingly, customers never paid for the item giving rise to the refund. The commutation of this AEGIS policy does not represent an accounting gain and should not be treated as anything other than a change in a period cost.* *See* FPL Brief, p. 95.

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?

FPL: *Yes. The adjustments required to reflect the expected settlement from the Department of Energy in the 2010 and 2011 test years are included in Exhibit 358.* *See* Ex. 358.

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

FPL: *The only appropriate adjustment is to correct affiliate payroll loadings. That adjustment is listed on Exhibit 358.* *See* FPL Brief, p. 81.

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

FPL: *No. Gains and losses arising from transactions with non-regulated affiliates are handled as required by the FERC Uniform System of Accounts and FPSC rules. FPL has properly accounted for the types of transactions, and therefore no adjustment is needed.* *See* FPL Brief, pp. 83.

ISSUE 118: Intentionally Blank

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?

FPL: *FPL does not believe that an order is necessary; however, FPL will commit to notify the Commission when the transfer of FPL-NED assets, which is currently in process, has been finalized.* *See* FPL Brief, p. 84.

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?

FPL: *No. FPL's requested annual storm damage accrual and target reserve level are needed to address the expected annual storm losses for FPL's extensive and hurricane-prone service territory, key policy considerations underlying storm cost recovery framework, and the Commission's policy of determining a reserve balance sufficient to protect against most years' storm restoration costs. Such a level reduces dependence on relief mechanisms such as special assessments, providing more stability in customer bills.* *See* FPL Brief, p. 72.

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

FPL: *The annual fossil dismantlement accrual should be increased from $15,321,113 to $21,567,577 based on the 2009 Dismantlement Study.* *See* FPL Brief, p. 70.

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?

FPL: *FPL's estimated rate case expense is $3,657,000. Based on actual expenditures to date, this was a conservatively low estimate, and should be allowed in its entirety. A three-year amortization period of the estimated expense is appropriate.* *See* FPL Brief, p. 87.

ISSUE 124: Should FPL's request to move payroll loading associated with the Energy Cost Recovery Clause (ECCR) payroll currently recovered in base rates to the ECCR be approved?

A. For the 2010 projected test year?

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

FPL: *Yes. These payroll loadings are associated with payroll dollars recovered through the ECCR clause. In Docket No. 850002-PU, it was determined that these costs were included in base rates. These costs should be moved to the ECCR clause in order to properly recover the fully loaded ECCR payroll costs in the clause.* *See* Tr. 3648.

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?

FPL: *Yes. The payroll loadings on incremental security costs that are currently included in base rates should be recovered through the Capacity Cost Recovery Clause. This treatment is used by FPL for similar payroll loading costs recovered through other cost recovery clauses.* *See* Tr. 3648.

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?

FPL: *Yes. Incremental hedging costs are currently recovered through the Fuel Cost Recovery Clause. Order No. PSC-02-1484-FOF-EI stated that incremental hedging costs were recoverable as part of the fuel clause until the earlier of 2006 or the establishment of new base rates. Recovery of these costs was extended through December 31, 2009 pursuant to Order No PSC-05-1252-FOF-EI. FPL is therefore proposing that these costs be recovered through base rates, subject to the adjustments on Exhibit 358.* *See* Tr. 3647.

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?

FPL: *Yes; however the figures reflected above do not account for fuel and interchange. After accounting for the adjustments in Ex. 358, Exs. 481, 511, and Ex. 514, the 2010 and 2011 requested levels of O&M Expense should be $1,668,076,000 and $1,753,629,000, respectively. FPL filed a full set of MFRs for 2010 and 2011 that were the result of a rigorous budgeting and forecasting process, including close scrutiny in the review and approval of O&M expense levels. FPL's O&M expenses have ranked in the top quartile among comparable companies and first among regional utilities over the past 10 years. For 2007 alone, if FPL had been merely an average performer among the 28 straight electric companies utilized by FPL witness Reed, its non-fuel O&M costs charged to customers would have been between $700 million and $1.3 billion higher than its actual costs.* *See* FPL Brief, pp. 86-96.

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

FPL: *No. The depreciation of this system should commence upon the implementation date. FPL identified an error in the projection of plant in service and depreciation expense regarding this item. Depreciation expense is overstated by $0.4 million in 2010 and $4.2 million in 2011. Rate base is understated due to the accumulated

depreciation by $0.1 million in 2010 and $2.0 million in 2011. The adjustments and revenue requirement impacts are presented in Exhibit 358.* *See* Ex. 358.

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

FPL: *No adjustments are needed to FPL's projected depreciation expenses related to capital expenditure reductions, with the exception of the items listed on Exhibits 358 and 511. Capital expenditure reductions in 2009 relative to the 2009 forecast filed in this proceeding relate to clause recoverable projects and do not affect the projected plant in service balances that comprise retail rate base.* *See* FPL Brief, pp. 96-98.

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?

FPL: *No adjustments are necessary to depreciation expense as filed except for items impacting depreciation that are listed on Exhibits 358, 481 and 511.* *See* FPL Brief, pp. 56-62.

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?

FPL: *No. Subject to the adjustments listed on Exhibit 358, the 2010 and 2011 projections of Taxes Other Than Income Taxes are appropriate.* *See* FPL Brief, pp. 100-01.

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?

FPL: *Yes. FPL has reviewed the ARRA and has determined it would make an adjustment for the amount of bonus depreciation that will be deductible for 2009. This bonus depreciation will affect the amount of accumulated deferred income taxes to be included as cost free capital in the capital structure. These adjustments are listed on Exhibit 358 for 2010 and 2011. No adjustment is necessary for the Smart Grid Investment Grant Program. This grant, awarded to FPL on October 27, 2009, will offset the incremental cost of new projects above and beyond what FPL has projected for 2010 and 2011 – it will not offset the cost of the projects currently reflected in rate base. FPL's grant application to cover the cost of converting certain company vehicles to plug in electrical vehicles also would not

have affected rate base; however, this issue is moot as the plug-in vehicle grant was not received.* *See* FPL Brief, pp. 95, 98-99.

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?

FPL: *No. The projected income tax expenses for 2010 and 2011 are appropriate. After accounting for the adjustments in Exs. 358, 481 and 511, and 514, FPL's 2010 jurisdictional projected Income Tax expense is $248,680,000 ($243,338,000 per original filing) and 2011 jurisdictional projected Income Tax expense is $180,545,000 ($171,013,000 per original filing).* *See* FPL Brief, pp. 52, 100-01.

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?

FPL: *Yes. After accounting for the adjustments on Exs. 358, 481 and 511, and 514, FPL's projected NOI for 2010 is $728,221,000 and projected NOI for 2011 is $669,858,000 and are appropriate.* *See* FPL Brief, pp. 100-01

REVENUE REQUIREMENTS

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?

FPL: *The appropriate projected 2010 and 2011 revenue expansion factors are 1.63411 (1.63342 per original filing) and 1.63279 (1.63256 per original filing), respectively. The elements and rates are shown on MFR C-44 for each year, then adjusted by Ex. 358.* *See* FPL Brief, p. 100.

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?

FPL: *Yes. After accounting for the adjustments on Exs. 358, 481 and 511, and 514, FPL's requested annual revenue increase for 2010 is $959,018,000 and for 2011 is $237,473,000. The 2010 and 2011 requested annual operating revenue increases are appropriate.* *See* FPL Brief, pp. 114-15.

ISSUE 138: Intentionally Blank

COST OF SERVICE AND RATE DESIGN ISSUES

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?

FPL: *Yes. Subject to adjustments listed on Exhibit 358, FPL has correctly calculated 2010 and 2011 revenues at current rates. These revenue calculations are detailed in MFRs E-13b, E-13c and E-13d, and summarized in E-13a. FPL's projection of revenues at existing rates assumes GBRA increases for Turkey Point Unit 5 and West County Units 1 and 2.* *See* FPL Brief, pp. 100-01.

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?

FPL: *No. FPL has filed the appropriate methodology to allocate distribution plant costs to rate classes. The Commission has consistently rejected the use of a minimum distribution cost methodology for IOUs. The minimum distribution cost methodology is inconsistent with FPL's distribution system planning and how costs are incurred on FPL's system. Furthermore, use of this inappropriate methodology would drastically increase the amount of distribution plant costs allocated to residential and very small commercial customers.* *See* FPL Brief, pp. 105-07.

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?

FPL: *The Appropriate Cost of Service Methodology (COSM) is the 12-CP and 1/13th methodology. The Commission approved this COSM in FPL's last fully litigated rate case with one exception for St. Lucie Unit 2, which no longer applies. FPL's Cost of Service studies in this proceeding are limited to base rate costs. Costs recovered through cost recovery clauses have been removed as Commission Adjustments and are excluded.* *See* FPL Brief, pp. 104-05.

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

FPL: *The increase should be allocated as shown in MFR E-8 to move all rate classes closer to parity to the greatest extent practicable. Limiting the increase to any rate class to no more than 150% of the system average should be rejected in this case, as it would perpetuate subsidizations between the rate classes and would unfairly burden rate classes which are above parity.* *See* FPL Brief, pp. 107-110.

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

FPL: *Yes. The appropriate service charges are as follows:

Initial Connection New Premise	$100.00
Field Collection	$19.00
Reconnection Charge	$48.00
Connect/Disconnect Existing Premise	$21.00
Returned Payment	A Returned Payment Charge as allowed by Florida Statute 68.065 shall apply for each check or draft dishonored by the bank upon which it is drawn.* *See* FPL Brief, pp. 110-12.

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

FPL: *Yes. FPL has seen a steady increase in the number of customers making late payments. From 2006 to 2008 this number increased by an average of 150,000 customers. Other industries use late payment charges greater than $10 to encourage customers to pay on time, and other Florida utilities use a fee similar to what FPL is proposing. FPL believes the $10 minimum charge will provide the appropriate incentives to improve customer payment behavior.* *See* FPL Brief, pp. 111-12.

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)

FPL: *Yes. FPL's proposed termination factors as determined in Attachment 3 of MFR E-14 and presented in the tariff sheets provided in Attachment 1 of MFR E-14 appropriately reflect FPL's costs.* *See* MFR E-14.

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)

FPL: *Yes. FPL's proposed Present Value Revenue Requirement multiplier as determined in Attachment 3 of MFR E-14 and presented in the tariff sheets

provided in Attachment 1 of MFR E-14 appropriately reflects FPL's costs.* *See* MFR E-14.

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)

FPL: *Yes. Removing this option for new customers clarifies maintenance responsibilities and eliminates potential customer dissatisfaction. Customers choosing this option often believe that FPL is responsible for all maintenance instead of just re-lamping. FPL will retain the full maintenance option.* *See* FPL Brief, p. 112.

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)

FPL: *Yes, FPL's monthly kW credit as determined in Attachment 2 of MFR E-14 and presented in the tariff sheets provided in Attachment 1 of MFR E-14 appropriately reflects FPL's costs.* *See* MFR E-14.

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)

FPL: *Yes. FPL's proposed monthly fixed charge carrying rates provided in MFR E-14, Attachment 1 of FPL's filing appropriately reflect FPL's cost.* *See* MFR E-14.

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)

FPL: *Yes. FPL's proposed monthly rental factor provided in MFR E-14, Attachment 1 of FPL's filing appropriately reflects FPL's costs.* *See* MFR E-14.

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)

FPL: *Yes. FPL's proposed monthly rental factor provided in MFR E-14, Attachment 1 of FPL's filing appropriately reflects FPL's costs.* *See* MFR E-14.

ISSUE 159: What are the appropriate customer charges?

FPL: *The appropriate customer charges are those shown in MFR A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on Exhibit 358.* *See* FPL Brief, p. 112.

ISSUE 160: What are the appropriate demand charges?

FPL: *The appropriate demand charges are those shown in MFR A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on Exhibit 358.* *See* FPL Brief, p. 112.

ISSUE 161: What are the appropriate energy charges?

FPL: *The appropriate energy charges are those shown in MFR A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on Exhibit 358.* *See* FPL Brief, p. 112.

ISSUE 162: What are the appropriate lighting rate charges?

FPL: *The appropriate lighting rate schedule charges are those presented in the tariff sheets provided in MFR E-14, Attachment 1 of FPL's filing. These charges are subject to revision to reflect the impact, if any, of adjustments listed on Exhibit 358.* *See* FPL Brief, p. 112.

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

FPL: *The appropriate level and design of the charges under the Standby and Supplemental Services (SST-1) rate schedule are provided in Exhibit 166. The tariff sheets incorporating the appropriate level and design of the charges under the SST-1 rate schedule are contained in MFR E-14, Attachment 1.* *See* MFR E-14.

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

FPL: *The appropriate level and design of the charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule are provided in Exhibit 166. The tariff sheets incorporating the appropriate level and design of the charges under ISST-1 rate schedule are contained in MFR E-14, Attachment 1.* *See* MFR E-14.

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

FPL: *Yes. FPL's design of the HLFT rates, as presented in Exhibit 166, is appropriate. The rates as designed are consistent with the methodology approved by the Commission in Docket No. 050045-EI.* *See* Tr. 4213-14.

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

FPL: Yes. FPL's design of the CILC rate, as presented in Exhibit 166, is appropriate. The rate as designed is consistent with the methodology approved by the Commission in Docket No. 891045-EI.* *See* Tr. 4214.

ISSUE 167: Is FPL's CDR credit appropriate?

FPL: *Yes. The CDR credits are properly determined in Demand Side Management (DSM) Goals and DSM Plan proceedings. FPL's CDR credit was reviewed and approved by the FPSC in Docket No. 040029-EG. It was subsequently changed as part of the 2005 Rate Case proceeding, Docket No. 050045-EI, to remove embedded Gross Receipts Tax. The CDR credit will be reviewed by the FPSC in Docket No. 080407-EG.* *See* Tr. 4213-14.

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

FPL: *The appropriate method for designing time of use rates for FPL is provided in MFR E-14, Attachment 2. This method is consistent with Commission Order No. PSC-92-1197-FOF-EI in Docket No. 910890-EI.* *See* FPL Brief, pp. 113-14.

ISSUE 169: Intentionally Blank.

ISSUE 170: Should FPL evaluate the merits of a prepayment option in lieu of monthly billing for those customers who can benefit from such an alternative? If so, how?

FPL: *FPL is willing to evaluating the merits of a prepayment option for government and/or business customers. A review should consider benefits to participating customers and address any cost recovery to ensure it does not provide a cost burden or risk, or is discriminatory to non-participants. This study can be conducted during the fourth quarter of 2009 and the first quarter of 2010. The Commission would receive a feasibility review during the second quarter of 2010.*

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?

FPL: *Yes. As with any other asset providing service to utility customers, the nuclear uprate additions are entitled to recovery from customers. If any prudently incurred nuclear plant investment and operating costs are determined to be

ineligible for cost recovery through the NCRC, those costs should be recoverable through base rates.* *See* Tr. 3629-32.

ISSUE 173A: Should FPL evaluate the merits of an LED street lighting alternative to its conventional street lighting rate and, if so, how?

FPL: In March 2009, FPL installed LED street lights at its headquarters as a pilot program. The street light performance and energy consumption results will be monitored for one year. FPL will provide the results of this program and future plans to FPSC Staff by June 1, 2010. FPL is willing to work with customers on customer-owned LED street light facilities. These LED street lights would only be charged for energy used.

ISSUE 174: Intentionally Blank

ISSUE 177: Should this docket be closed?

FPL: No position on this issue is necessary.

PROPOSED FINDINGS OF FACT AND POSITIONS ON ISSUES SUBSUMED IN 19A-19G

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

FPL: *Yes. FPL's use of accelerated capital recovery schedules for certain assets that are anticipated to be retired over a relatively short period of time is appropriate and consistent with previous Commission practice and the Florida Administrative Code, Rule 25-6.0436(10)(a).* Tr. 6415-16 (Davis). Please see Issue 19A.

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

FPL: *A 40 year life span should be used for FPL's coal plants, which reflects the design life and acknowledges the uncertainty of future environmental legislation, and is within the range of life spans used by Gannett Fleming and the industry. Tr. 2764 (Clarke).* Please see Issue 19C.

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

FPL: *A 25 year life span should be used for FPL's combined cycle units, which is based on the manufacturer's design life of the combustion turbine and considers FPL-specific factors such as the coastal climate and heavy cycling. Tr. 2764 (Clarke).* Please see Issue 19C.

ISSUE 24: What are the appropriate depreciation rates?

FPL: *The appropriate depreciation parameters and resulting rates for each production unit, transmission, distribution, and general plant account are reflected in the depreciation study FPL filed on March 17, 2009.* Ex. 115. Please see Issues 19C and 19D.

ISSUE 25: Has FPL applied appropriate life spans to categories of production plant when developing its proposed depreciation rates? (coal-fired production units; large steam oil or gas-fired generating facilities; combined cycle generating facilities)

FPL: *Yes. FPL has applied the appropriate life spans to coal-fired production units (40 yrs), large steam oil or gas-fired generating facilities (35 yrs) and combined-cycle generating facilities (25 yrs), which are all within the life spans used by Gannett Fleming and the industry for reasonableness.* Tr. 2764-65 (Clarke). Please see Issue 19C.

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

FPL: *Yes. FPL used the Average Service Life Procedure and applied it correctly to calculate remaining life.* Tr. 2751 (Clarke). Please see Issue 19B.

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?

FPL: *Yes. FPL appropriately quantified the level of interim retirements using an Iowa curve with a distinct retirement dispersion pattern that matches the type of property in each plant. This method is widely accepted for use with life span property such as generators, it takes into account that the property will be retired at different ages, and it is more accurate as compared to using a flat, constant retirement rate.* Tr. 2773-78 (Clarke). Please see 19C.

ISSUE 27A: Has FPL appropriately calculated the remaining life of its plant?

FPL: *Yes. FPL allocated the book depreciation reserve to each vintage within an account in proportion to the theoretical reserve, but limited the reserve for each vintage so as not exceed original cost less proposed net salvage. This methodology is consistent with standard mass property depreciation concepts and is consistent with FPL's actual practice because it limits accruals only to vintages that have future costs to recover.* Tr. 2768-69, 2771 (Clarke). Please see Issue 19B.

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?

FPL: *Yes. FPL adjusted the net salvage level based on the percentage of plant that will be retired as interim retirements, using the Iowa type interim survivor curve for each production plant account. Because not all of the plant in service will be subject to interim retirements, the mix of investment for interim retirements is different than the entire plant in service in FPL's historical database. Tr. 2787-88 (Clarke).* Please see Issue 19C.

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?

FPL: *Yes. FPL appropriately estimated costs associated with dismantlement of its fossil plants using productivity factors provided by NUS Engineering, assuming total demolition using heavy equipment and the most efficient methods possible, recognizing that many generating assets are situated near commercial structures and/or other environmentally sensitive areas.* Tr. 3670-71, 3673 (Ousdahl). Please see Issue 19C.

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?

350.2 Transmission Easements
353 Transmission Substation Equipment
353.1 Transmission Substation Equipment Step-Up Transformers
354 Transmission Towers & Fixtures
356 Transmission Overhead Conductor
359 Transmission Roads and Trails
362 Distribution Substation Equipment
364 Distribution Poles, Towers & Fixtures
365 Distribution Overhead Conductors
367.6 Underground Conductors
367.7 Distribution Underground Conductions and Devices-Direct Buried
368 Distribution Line Transformers
369.7 Distribution Services-Underground
370 Distribution Meters
373 Distribution Street Lighting and Signal Systems
390 General Plant Structures
392.01 General Plant Aircraft-Fixed Wing
392.-2 General Plant Aircraft-Rotary Wing

FPL: *Yes. FPL-specific data and characteristics were used rather than industry averages. FPL reviewed its data for irregularities, performed a statistical analysis on all accounts, reviewed current approved average service lives and curves, and then compared initial results with industry statistics. FPL used a combination of visual curve fitting and mathematical curve matching to develop the "best" fitting curve.* Tr. 2798-02 (Clarke). Please see Issue 19D.

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?

353 Transmission Station Equipment
354 Transmission Tower & Fixtures
355 Transmission Poles & Fixtures
356 Transmission Overhead Conductors
364 Distribution Poles, Towers & Fixtures
365 Overhead Conductors & Devices
366.6 Underground Conduit – Duct System
367.6 Underground Conductor – Duct System
368 Distribution Line Transformers
369.1 Distribution Services – Overhead
369.7 Distribution Services – Underground
370 Distribution Meters
370.1 Distribution Meters – AMI
390 General Structures & Improvements

FPL: *Yes. FPL reviewed net salvage data from 1986-2007, confirmed the data with O&M personnel, rejected abnormal data, looked at trends and bands of years, incorporated information gained from personnel interviews and compared results to the industry, which demonstrated that the Company's estimates were well within the industry range. FPL also appropriately accounted for economies of scale and included reimbursed retirements reoccurring on a regular basis.* Tr. 2813-17, 2836-37 (Clarke). Please see Issue 19D.

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?

FPL: *The appropriate depreciation parameters and resulting rates for each production unit, transmission, distribution, and general plant account are incorporated in the depreciation study FPL filed on March 17, 2009. FPL's annual depreciation expense, after making the adjustments presented in Exhibits 358, 481 and 511, is $1,057,220 (2010) and $1,115,759 (2011).* Tr. 2758 (Clarke); Ex. 115. See Issues 19C, 19D, and 131.

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

FPL: *There presently is no generational inequity. Customers were "charged" an appropriate amount of depreciation expense in the past, based on the best information available to the Commission at that time, and without any increase in electric rates. The Commission should continue its long-standing reliance on the remaining life depreciation methodology, which is self-adjusting and will address deficiencies and surpluses over the remaining useful life of the assets.* Tr. 6402-03 (Davis). Please see Issue 19F.

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?

FPL: *The Commission should consider the fact that rapid amortization creates intergenerational inequities by creating an artificial benefit in the short term and requiring customers in future periods to pay significantly higher costs for a less-beneficial asset; the effects of unpredictable future events such as climate legislation and hurricanes on plant assets; and the potential to be under-depreciated by approximately $68 million in FPL's next depreciation study.* Tr. 6404-05 (Davis). Please see Issue 19F.

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?

FPL: *The intervenors' proposals would negatively impact the Company's quality of earnings and reduce cash flow, prompting a need to raise more debt and/or equity. Both results could affect FPL's credit rating.* Tr. 4969-70 (Pimentel). Please see Issue 19F.

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

FPL: *Continuation of the remaining life depreciation methodology is the appropriate disposition of FPL's depreciation reserve imbalances.* Tr. 6403 (Davis). Please see Issue 19F.

PROPOSED FINDINGS OF FACT AND POSITIONS ON ISSUES SUBSUMED IN ISSUE 109

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

FPL: *No. Consistent with Commission precedent, the Massachusetts Formula appropriately allocates executive costs according to a size-based methodology.* Tr. 3691-92 (Ousdahl). Please see Issue 109.

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

FPL: *No. FPL provided drivers updated in the first quarter of this year as a part of its normal billing process to compare to those included in the rate filing. It is incorrect to assume that the AMF Cost Driver will increase over time. Many of the new drivers actually decreased.* Tr. 3689 (Ousdahl); Ex. 356. Please see Issue 109.

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

FPL: *No. FPL's AMF and Massachusetts Formula allocation factors are appropriate and no adjustments are necessary. Tr. 3698 (Ousdahl). Please see Issue 109.*

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

FPL: *No. The costs charged to FPL by FiberNet to FPL are appropriate. FiberNet charges FPL for telecommunication services, which earn their own rate of return because they are generally regarded as more risky than electric utility services, particularly for competitive exchange companies such as FiberNet. Pole rental attachment fees associated with FiberNet were also appropriately considered.* Tr. 4470 (Avera); Tr. 3687 (Ousdahl); Ex. 363 p. 64. Please see Issue 109.

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?

FPL: *No. FPLES' gross margins realized from the gas business are unrelated to FPL and its rate payers; therefore, no adjustment is necessary. The sale of the FPL gas contracts to FPLES was resolved per FPL's 2005 Stipulation and Settlement Agreement (Docket Nos. 050045-EI and 050188-EI, Order No. PSC-05-0902-S-EI). FPL has not been involved in this business since that time.* Tr. 6060 (Santos). Please see FPL's 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?

FPL: *No adjustment is necessary to recognize compensation for these services. For those FPLES programs that use the FPL bill, FPLES compensates FPL for billing, collection and any other related costs.* Tr. 6060 (Santos). Please see 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?

FPL: *No adjustment is necessary.* Tr. 6060 (Santos). Please see FPL's Issue 109.

FPL notes that the proposed stipulations on the issues listed in Section X of the Pre-Hearing Order, Order No. PSC-09-0573-PHO-EI, were approved by the Commission on August 24, 2009. Accordingly, they are not addressed herein. *See* Tr. 32-35.

Respectfully submitted this 16th day of November, 2009.

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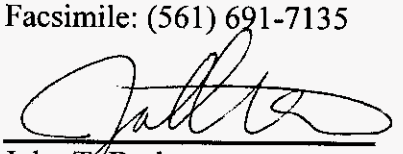
By: 

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APPENDIX I

ADJUSTMENTS TO 2010 MFRs A-1, B-1, C-1, C-44 and D-1a
PER EX. 358 (KO-16), EXS. 481/511 (AVIATION)
and EX. 514 (EXECUTIVE COMPENSATION)

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2010 RECALCULATED REVENUE REQUIREMENTS (MFR A-1 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS, REMOVAL OF AVIATION, AND COMPENSATION REDUCTION[A]
($000's)

LINE NO.	DESCRIPTION	2010 REVENUE INCREASE REQUESTED AS SHOWN ON MFR A-1 (1)	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2010 RECALCULATED REVENUE INCREASE WITH ADJUSTMENTS (3)
1				
2	JURISDICTIONAL ADJUSTED RATE BASE	$17,063,586	($311,406)	$16,752,181
3				
4	RATE OF RETURN ON RATE BASE REQUESTED	8.00%	-0.15%	7.85%
5				
6	JURISDICTIONAL NET OPERATING INCOME REQUESTED	1,364,748	(49,652)	1,315,096
7				
8	JURISDICTIONAL ADJUSTED NET OPERATING INCOME	725,883	2,338	728,221
9				
10	NET OPERATING INCOME DEFICIENCY (EXCESS)	638,865	(51,990)	586,875
11				
12	EARNED RATE OF RETURN	4.25%	0.09%	4.35%
13				
14	NET OPERATING INCOME MULTIPLIER	1.63342	0.00069	1.63411
15				
16	REVENUE INCREASE (DECREASE)	$1,043,535	($84,517)	$959,018

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358), REMOVAL OF AVIATION (EXHIBITS 481/ 511), AND COMPENSATION REDUCTION (EXHIBIT 514)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2010 RECALCULATED JURISDICTIONAL RATE BASE (RB) (MFR B-1 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS AND REMOVAL OF AVIATION[(A)]
($000's)

LINE NO.	DESCRIPTION	2010 JURISDICTIONAL ADJUSTED RB AS SHOWN ON MFR B-1 (1)	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2010 RECALCULATED RB WITH ADJUSTMENTS (3)
1				
2	PLANT IN SERVICE	$ 28,288,080	$ (469,331)	$ 27,818,749
3				
4	DEPRECIATION & AMORT RESERVE	12,590,521	(174,269)	12,416,252
5				
6	NET PLANT IN SERVICE	15,697,559	(295,062)	15,402,497
7				
8	FUTURE USE PLANT	74,502	(4,200)	70,302
9				
10	CWIP	707,530	(16,150)	691,380
11				
12	NUCLEAR FUEL	374,733	(3,771)	370,962
13				
14	NET UTILITY PLANT	16,854,324	(319,183)	16,535,141
15				
16	WORKING CAPITAL	209,262	7,777	217,040
17				
18	RATE BASE	$ 17,063,586	$ (311,406)	$ 16,752,181

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358) AND REMOVAL OF AVIATION (EXHIBITS 481/ 511)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2010 RECALCULATED JURISDICTIONAL NET OPERATING INCOME (NOI) (MFR C-1 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS, REMOVAL OF AVIATION, AND COMPENSATION REDUCTION [A]
($000's)

LINE NO.	DESCRIPTION	2010 JURISDICTIONAL ADJUSTED NOI AS SHOWN ON MFR C-1 (1)	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2010 RECALCULATED NOI WITH ADJUSTMENTS (3)
1				
2	REVENUE FROM SALES	$ 3,920,872	$ -	$ 3,920,872
3				
4	OTHER OPERATING REVENUES	193,855	(40,273)	153,582
5				
6	TOTAL OPERATING REVENUES	4,114,727	(40,273)	4,074,454
7				
8	OTHER	1,694,367	(26,292)	1,668,076
9				
10	FUEL & INTERCHANGE	27,505	(52)	27,453
11				
12	PURCHASED POWER	0	0	0
13				
14	DEFERRED COSTS	0	0	0
15				
16	DEPRECIATION & AMORTIZATION	1,074,265	(17,045)	1,057,220
17				
18	TAXES OTHER THAN INCOME TAXES	350,370	(4,565)	345,806
19				
20	INCOME TAXES [B]	243,338	5,343	248,680
21				
22	(GAIN)/LOSS ON DISPOSAL OF PLANT	(1,002)	0	(1,002)
23				
24	TOTAL OPERATING EXPENSES	3,388,844	(42,611)	3,346,233
25				
26	NET OPERATING INCOME	$ 725,883	$ 2,338	$ 728,221

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358), REMOVAL OF AVIATION (EXHIBITS 481/ 511), AND COMPENSATION REDUCTION (EXHIBIT 514)
(B) AMOUNT IN COLUMN 2 INCLUDES INTEREST SYNC ADJUSTMENT OF $2,380 AND INCOME TAXES RELATED TO NOI ADJUSTMENTS OF $2,963.
(C) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2010 RECALCULATED REVENUE EXPANSION FACTOR (MFR C-44 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS [A]

LINE NO.	DESCRIPTION	2010 REVENUE EXPANSION FACTOR AS SHOWN ON MFR C-44 (1)	EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2010 RECALCULATED REVENUE EXPANSION FACTOR WITH ADJUSTMENTS (3)
1				
2	REVENUE REQUIREMENT	1.00000		1.00000
3				
4	REGULATORY ASSESSMENT RATE	0.072%		0.072%
5				
6	BAD DEBT RATE	0.260%	0.042%	0.302%
7				
8	NET BEFORE INCOME TAXES	0.99668		0.99626
9				
10	STATE INCOME TAX RATE	5.50%		5.50%
11				
12	STATE INCOME TAX	0.05482		0.05479
13				
14	NET BEFORE FEDERAL INCOME TAX	0.94186		0.94147
15				
16	FEDERAL INCOME TAX RATE	35.00%		35.00%
17				
18	FEDERAL INCOME TAX	0.32965		0.32951
19				
20	REVENUE EXPANSION FACTOR	0.61221		0.61195
21				
22	NET OPERATING INCOME MULTIPLIER	1.63342		1.63411

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2010 RECALCULATED RATE OF RETURN ON RATE BASE (MFR D-1a FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS, REMOVAL OF AVIATION, AND COMPENSATION REDUCTION[A]
($000's)

LINE NO.	CLASS OF CAPITAL	2010 JURISDICTIONAL ADJUSTED AS SHOWN ON MFR D-1a	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS	2010 RECALCULATED AMOUNT WITH ADJUSTMENTS
1	LONG TERM DEBT	$ 5,377,787	$ (89,953)	$ 5,287,834
2	PREFERRED STOCK	-	-	-
3	CUSTOMER DEPOSITS	564,652	(21,084)	543,568
4	COMMON EQUITY	8,178,980	(305,580)	7,873,400
5	SHORT TERM DEBT	161,857	(6,070)	155,786
6	DEFERRED INCOME TAX	2,723,327	162,847	2,886,174
7	INVESTMENT TAX CREDITS	56,983	(51,565)	5,418
8	TOTAL	$ 17,063,587	$ (311,406)	$ 16,752,181

LINE NO.	CLASS OF CAPITAL	2010 COST RATE AS SHOWN ON MFR D-1a	EFFECT OF IDENTIFIED ADJUSTMENTS	2010 COST RATE WITH ADJUSTMENTS
9	LONG TERM DEBT	5.55%	0.00%	5.55%
10	PREFERRED STOCK	0.00%	0.00%	0.00%
11	CUSTOMER DEPOSITS	5.98%	0.00%	5.98%
12	COMMON EQUITY	12.50%	0.00%	12.50%
13	SHORT TERM DEBT	2.96%	0.00%	2.96%
14	DEFERRED INCOME TAX	0.00%	0.00%	0.00%
15	INVESTMENT TAX CREDITS	9.74%	-0.04%	9.71%

LINE NO.	CLASS OF CAPITAL	2010 WEIGHTED COST RATE AS SHOWN ON MFR D-1a	EFFECT OF IDENTIFIED ADJUSTMENTS	2010 WEIGHTED COST RATE WITH ADJUSTMENTS
16	LONG TERM DEBT	1.75%	0.00%	1.75%
17	PREFERRED STOCK	0.00%	0.00%	0.00%
18	CUSTOMER DEPOSITS	0.20%	0.00%	0.19%
19	COMMON EQUITY	5.99%	-0.12%	5.87%
20	SHORT TERM DEBT	0.03%	0.00%	0.03%
21	DEFERRED INCOME TAX	0.00%	0.00%	0.00%
22	INVESTMENT TAX CREDITS	0.03%	-0.03%	0.00%
23	TOTAL	8.00%	-0.15%	7.85%

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358), REMOVAL OF AVIATION (EXHIBITS 481/511), AND COMPENSATION REDUCTION (EXHIBIT 514)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

APPENDIX II

ADJUSTMENTS TO 2011 MFRs A-1, B-1, C-1, C-44 and D-1a
PER EX. 358 (KO-16), EXS. 481/511 (AVIATION)
and EX. 514 (EXECUTIVE COMPENSATION)

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2011 RECALCULATED REVENUE REQUIREMENTS (MFR A-1 FORMAT)
INCLUDES EFFECT OF KO-16- IDENTIFIED ADJUSTMENTS, REMOVAL OF AVIATION, AND COMPENSATION REDUCTION[A]
($000's)

LINE NO.	DESCRIPTION	2011 REVENUE INCREASE REQUESTED AS SHOWN ON MFR A-1 (1)	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2011 RECALCULATED REVENUE INCREASE WITH ADJUSTMENTS (3)
1				
2	JURISDICTIONAL ADJUSTED RATE BASE	$17,880,402	($378,335)	$17,502,067
3				
4	RATE OF RETURN ON RATE BASE REQUESTED	8.18%	-0.12%	8.06%
5				
6	JURISDICTIONAL NET OPERATING INCOME REQUESTED	1,462,895	(51,613)	1,411,282
7				
8	JURISDICTIONAL ADJUSTED NET OPERATING INCOME	662,776	7,082	669,858
9				
10	NET OPERATING INCOME DEFICIENCY (EXCESS)	800,119	(58,696)	741,424
11				
12	EARNED RATE OF RETURN	3.71%	0.12%	3.83%
13				
14	NET OPERATING INCOME MULTIPLIER	1.63256	0.00023	1.63279
15				
16	REVENUE INCREASE (DECREASE)	$1,306,243	($95,654)	$1,210,589
17				
18	2011 SALES GROWTH	1.47%		1.47%
19				
20	2010 REVENUE INCREASE REQUESTED [B]	1,058,876		973,117
21				
22	RATE INCREASE REQUESTED (AFTER FULL 2010 RATE INCREASE)	$ 247,367		$ 237,473
23				
24				
25				

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358), REMOVAL OF AVIATION (EXHIBITS 481/ 511), AND COMPENSATION REDUCTION (EXHIBIT 514)
(B) 2010 REVENUE INCREASE REQUESTED ON TEST YEAR MFR A-1, $1,043,535,000 ADJUSTED FOR 2011 SALES GROWTH. RECALCULATED AMOUNT IS $959,018,000 ADJUSTED FOR 2011 SALES GROWTH.
(C) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2011 RECALCULATED JURISDICTIONAL RATE BASE (RB) (MFR B-1 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS AND REMOVAL OF AVIATION[A]
($000's)

Line No.	Description	2011 JURISDICTIONAL ADJUSTED RB AS SHOWN ON MFR B-1 (1)	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2011 RECALCULATED RB WITH ADJUSTMENTS (3)
1				
2	PLANT IN SERVICE	$ 29,599,965	$ (556,744)	$ 29,043,221
3				
4	DEPRECIATION & AMORT RESERVE	13,306,984	(191,980)	13,115,003
5				
6	NET PLANT IN SERVICE	16,292,981	(364,763)	15,928,217
7				
8	FUTURE USE PLANT	71,452	(3,934)	67,518
9				
10	CWIP	772,484	(563)	771,921
11				
12	NUCLEAR FUEL	408,125	(3,792)	404,334
13				
14	NET UTILITY PLANT	17,545,042	(373,052)	17,171,990
15				
16	WORKING CAPITAL	335,360	(5,283)	330,077
17				
18	RATE BASE	$ 17,880,402	$ (378,335)	$ 17,502,067

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358) AND REMOVAL OF AVIATION (EXHIBITS 481/511)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2011 RECALCULATED JURISDICTIONAL NET OPERATING INCOME (NOI) (MFR C-1 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS, REMOVAL OF AVIATION, AND COMPENSATION REDUCTION[A]
($000's)

Line No.	Description	2011 JURISDICTIONAL ADJUSTED NOI AS SHOWN ON MFR C-1 (1)	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2011 RECALCULATED NOI WITH ADJUSTMENTS (3)
1				
2	REVENUE FROM SALES	$ 3,974,908	$ -	$ 3,974,908
3				
4	OTHER OPERATING REVENUES	200,116	(40,883)	159,233
5				
6	TOTAL OPERATING REVENUES	4,175,024	(40,883)	4,134,141
7				
8	OTHER	1,781,961	(28,332)	1,753,629
9				
10	FUEL & INTERCHANGE	28,222	(52)	28,171
11				
12	PURCHASED POWER	0	0	0
13				
14	DEFERRED COSTS	0	0	0
15				
16	DEPRECIATION & AMORTIZATION	1,138,961	(23,202)	1,115,759
17				
18	TAXES OTHER THAN INCOME TAXES	393,042	(5,911)	387,132
19				
20	INCOME TAXES [B]	171,013	9,531	180,545
21				
22	(GAIN)/LOSS ON DISPOSAL OF PLANT	(951)	0	(951)
23				
24	TOTAL OPERATING EXPENSES	3,512,248	(47,965)	3,464,283
25				
26	NET OPERATING INCOME	$ 662,776	$ 7,082	$ 669,858

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358), REMOVAL OF AVIATION (EXHIBITS 481/ 511), AND COMPENSATION REDUCTION (EXHIBIT 514)
(B) AMOUNT IN COLUMN 2 INCLUDES INTEREST SYNC ADJUSTMENT OF $3,123 AND INCOME TAXES RELATED TO NOI ADJUSTMENTS OF $6,407.
(C) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2011 RECALCULATED REVENUE EXPANSION FACTOR (MFR C-44 FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS[A]

Line No.	Description	2011 REVENUE EXPANSION FACTOR AS SHOWN ON MFR C-44 (1)	EFFECT OF IDENTIFIED ADJUSTMENTS (2)	2011 RECALCULATED REVENUE EXPANSION FACTOR WITH ADJUSTMENTS (3)
1				
2	REVENUE REQUIREMENT	1.00000		1.00000
3				
4	REGULATORY ASSESSMENT RATE	0.072%		0.072%
5				
6	BAD DEBT RATE	0.207%	0.014%	0.221%
7				
8	NET BEFORE INCOME TAXES	0.99721		0.99707
9				
10	STATE INCOME TAX RATE	5.50%		5.50%
11				
12	STATE INCOME TAX	0.05485		0.05484
13				
14	NET BEFORE FEDERAL INCOME TAX	0.94236		0.94223
15				
16	FEDERAL INCOME TAX RATE	35.00%		35.00%
17				
18	FEDERAL INCOME TAX	0.32983		0.32978
19				
20	REVENUE EXPANSION FACTOR	0.61254		0.61245
21				
22	NET OPERATING INCOME MULTIPLIER	1.63256		1.63279

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

FLORIDA POWER & LIGHT COMPANY AND SUBSIDIARIES
2011 RECALCULATED RATE OF RETURN ON RATE BASE (MFR D-1a FORMAT)
INCLUDES EFFECT OF KO-16 - IDENTIFIED ADJUSTMENTS, REMOVAL OF AVIATION, AND COMPENSATION REDUCTION[(A)]
($000's)

LINE NO.	CLASS OF CAPITAL	2011 JURISDICTIONAL ADJUSTED AS SHOWN ON MFR D-1a	JURISDICTIONAL EFFECT OF IDENTIFIED ADJUSTMENTS	2011 RECALCULATED AMOUNT WITH ADJUSTMENTS
1	LONG TERM DEBT	$ 5,888,206	$ (70,708)	$ 5,817,497
2	PREFERRED STOCK	-	-	-
3	CUSTOMER DEPOSITS	558,660	(16,148)	542,512
4	COMMON EQUITY	8,547,018	(247,417)	8,299,601
5	SHORT TERM DEBT	70,127	(2,039)	68,088
6	DEFERRED INCOME TAX	2,655,102	116,785	2,771,888
7	INVESTMENT TAX CREDITS	161,290	(158,808)	2,482
8	TOTAL	$ 17,880,402	$ (378,335)	$ 17,502,067

LINE NO.	CLASS OF CAPITAL	2011 COST RATE AS SHOWN ON MFR D-1a	EFFECT OF IDENTIFIED ADJUSTMENTS	2011 COST RATE WITH ADJUSTMENTS
9	LONG TERM DEBT	5.81%	0.00%	5.81%
10	PREFERRED STOCK	0.00%	0.00%	0.00%
11	CUSTOMER DEPOSITS	5.98%	0.00%	5.98%
12	COMMON EQUITY	12.50%	0.00%	12.50%
13	SHORT TERM DEBT	4.61%	0.00%	4.61%
14	DEFERRED INCOME TAX	0.00%	0.00%	0.00%
15	INVESTMENT TAX CREDITS	9.77%	-0.03%	9.74%

LINE NO.	CLASS OF CAPITAL	2011 WEIGHTED COST RATE AS SHOWN ON MFR D-1a	EFFECT OF IDENTIFIED ADJUSTMENTS	2011 WEIGHTED COST RATE WITH ADJUSTMENTS
16	LONG TERM DEBT	1.91%	0.02%	1.93%
17	PREFERRED STOCK	0.00%	0.00%	0.00%
18	CUSTOMER DEPOSITS	0.19%	0.00%	0.19%
19	COMMON EQUITY	5.98%	-0.05%	5.93%
20	SHORT TERM DEBT	0.02%	0.00%	0.02%
21	DEFERRED INCOME TAX	0.00%	0.00%	0.00%
22	INVESTMENT TAX CREDITS	0.09%	-0.09%	0.00%
23	TOTAL	8.18%	-0.12%	8.06%

NOTES:
(A) KO-16 - IDENTIFIED ADJUSTMENTS (EXHIBIT 358), REMOVAL OF AVIATION (EXHIBITS 481/ 511), AND COMPENSATION REDUCTION (EXHIBIT 514)
(B) TOTALS MAY NOT ADD DUE TO ROUNDING

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery* or United States Mail this 16th day of November, 2009, to the following:

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