

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: December 23, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Prestwood, Barrett, D. Buys, Dowds, Draper, Gardner, Hevitt, Higgins, Kummer, Laux, D. Lee, P. Lee, Lester, Matlock, Maurey, Ollila, Piper, A. Roberts, Salnova, Springer, Stallcup, Thompson)
Office of the General Counsel (Bennett, Brown, Cowdery, Williams, Young)
Division of Service, Safety & Consumer Assistance (Vickery, C. Lewis, Moses)
Division of Regulatory Analysis (Clemence, Garl, K. Lewis, Webb)

RE: Docket No. 080677-EI -- Petition for increase in rates by Florida Power & Light Company.

Docket No. 090130-EI -- 2009 depreciation and dismantlement study by Florida Power & Light Company.

AGENDA: 01/13/10 -- Regular Agenda -- Post-Hearing Decision -- Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Klement

CRITICAL DATES: 03/18/2010 (12-Month Effective Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\080677.RCM.DOC

RECEIVED-FPSC
09 DEC 23 AM 10:14
COMMISSION
CLERK

DOCUMENT NUMBER-DATE

12182 DEC 23 8

FPSC-COMMISSION CLERK

Table of Contents

<u>Issue</u>	<u>Description</u>	<u>Page</u>
	Case Background.....	7
	2010 PROPOSED TEST PERIOD.....	9
1	Legal authority to approve base rate increase (Bennett)	9
2	Projected test period (Prestwood).....	12
3	Forecasts of customers (Stallcup).....	15
	2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD.....	20
4	Subsequent year base rate adjustment (Bennett)	20
5	FPL's request to adjust base rates (Prestwood).....	23
6	Projected subsequent year test period (Prestwood)	27
7	Forecasts by revenue and rate classes (Stallcup).....	31
	GENERATION BASE RATE ADJUSTMENT	34
8	Generation Base Rate Adjustment (GBRA) (Garl, K. Lewis)	34
9	Qualifying generating plant additions (Prestwood).....	41
10	(Intentionally Blank)	44
11	GBRA design (Prestwood).....	45
12	Financial parameters of generating facility (Prestwood).....	49
13	GBRA implementation (Prestwood)	52
14	GBRA vs. subsequent year adjustment (Prestwood).....	54
	JURISDICTIONAL SEPARATION.....	57
15	Revenue responsibility for transmission investment (Laux)	57
16	Jurisdictional separations (Laux).....	60
	QUALITY OF SERVICE.....	62
17	Quality and reliability of electric service (Vickery, C. Lewis, Moses)	62
	DEPRECIATION STUDY.....	69
18	(Intentionally Blank)	69
19	(Intentionally Blank)	69
19A	Capital recovery schedules (P. Lee)	70
19B	Remaining life (P. Lee)	78
19C	Depreciation parameters (P. Lee)	83
19D	Depreciation parameters and resulting rates (Ollila).....	121
19E	Application of depreciation parameters (P. Lee).....	145
19F	Corrective reserve measures from Issue 19E (P. Lee, Maurey)	147
19G	Implementation date for revised depreciation rates, capital recovery schedules and amortization schedules (Ollila).....	163
20	(Intentionally Blank)	165
21	(Subsumed in Issue 19A).....	165
22	(Subsumed in Issue 19C).....	165
23	(Subsumed in Issue 19C).....	165
24	(Subsumed in Issue 19C and 19D)	165
25	(Subsumed in Issue 19C).....	165
26	(Subsumed in Issue 19B).....	166
27	(Subsumed in Issue 19C).....	166
27A	(Subsumed in Issue 19B).....	166
28	(Subsumed in Issue 19C).....	166

29	(Subsumed in Issue 19C).....	166
30	(Subsumed in Issue 19D).....	167
31	(Subsumed in Issue 19D).....	168
32	(Subsumed in Issue 19C 19D, and 131).....	169
33	(Intentionally Blank)	169
34	(Intentionally Blank)	169
35	(Subsumed in Issue 19F)	169
36	(Subsumed in Issue 19F)	169
37	(Subsumed in Issue 19F)	169
38	(Subsumed in Issue 19F)	169
39	(Intentionally Blank)	169
	FOSSIL DISMANTLEMENT COST STUDY	170
40	Annual dismantlement provision (Higgins)	170
41	Corrective reserve measures (Higgins)	173
42	Annual provision for dismantlement (Springer, Higgins).....	175
43	Greenfield status (Higgins).....	180
44	Dismantlement studies (Higgins)	182
	RATE BASE	185
45	(Intentionally Blank)	185
46	Calculation of working capital allowance (Gardner)	186
47	Advanced Metering Infrastructure (AMI) (Clemence)	189
48	(Subsumed in Issue 173)	192
49	(Subsumed in Issue 50)	192
50	Levels of Plant in Service (Gardner).....	193
51	Levels of accumulated depreciation (Gardner, P. Lee)	200
52	Adjustment to CWIP (Graves)	204
53	(Approved Stipulation).....	206
54	(Approved Stipulation).....	206
55	Levels of Construction Work in Progress (CWIP) (Gardner).....	207
56	Levels of Property Held for Future Use (Gardner)	210
57	(Approved Stipulation).....	213
58	Accrual of Nuclear End of Life Material and Supplies (Gardner, P. Lee).....	214
59	Nuclear fuel included in rate base (Gardner, Lester, Barrett)	217
60	Levels of Nuclear Fuel (Gardner, Lester).....	219
61	Unamortized balance of Glades Power Park (Gardner)	221
62	Levels of working capital (Gardner)	223
63	Requested rate base (Gardner).....	226
	COST OF CAPITAL	228
64	Accumulated deferred taxes (Springer).....	228
65	(Subsumed in Issue 69)	233
66	Unamortized investment tax credits (Springer).....	234
67	Cost rate for short-term debt (Springer)	237
68	Cost rate for long-term debt (Springer)	242
69	Reconciliation of rate base and capital structure (Springer)	245
70	Equity ratio (Maurey)	250
71	Appropriate equity ratio for ratemaking purposes (Maurey)	255
72	(Subsumed in Issue 72)	262

73	Capital structure for purposes of setting rates (Springer).....	263
74	(Subsumed in Issue 74)	267
75	(Subsumed in Issue 75)	267
76	(Subsumed in Issue 80)	267
77	(Subsumed in Issue 80)	267
78	(Subsumed in Issue 80)	267
79	(Subsumed in Issue 80)	267
80	Common equity (Maurey)	268
81	Weighted average cost of capital (Springer)	284
	NET OPERATING INCOME	287
82	Inflation and customer growth (Stallcup).....	287
83	Capacity charges (Prestwood)	290
84	Fuel Adjustment Clause (Prestwood).....	293
85	Conservation Cost Recovery Clause (Prestwood).....	296
86	Capacity Cost Recovery Clause (Prestwood).....	299
87	Environmental Cost Recovery Clause (Prestwood)	301
88	C/I Demand Reduction Rider (Prestwood).....	304
89	Late Payment Fee Revenues (Prestwood)	306
90	Revenue Forecast (Prestwood)	310
91	Total Operating Revenues (Prestwood).....	312
92	Charitable contributions (Prestwood)	313
93	Historical Museum (Prestwood).....	315
94	Aviation cost (Prestwood)	318
95	AMI meters included in net operating income (Clemence)	320
96	Bad Debt Expense (Prestwood).....	323
97	Clause revenue (Prestwood)	327
98	(Approved Stipulation).....	330
99	(Approved Stipulation)	330
100	Payroll (Prestwood)	331
101	Productivity improvements (Prestwood).....	335
102	Forecasted operating and maintenance expenses (Prestwood).....	338
103	Salaries and Employee Benefits (Prestwood).....	341
104	(Subsumed in Issue 103)	347
105	(Subsumed in Issue 103)	347
106	Pension Expense (Prestwood)	348
107	Environmental insurance refund (Prestwood)	350
108	Department of Energy settlement (Prestwood, Lester, Barrett)	353
109	Transactions with affiliated companies (Prestwood)	357
110	(Subsumed in Issue 109)	369
111	(Subsumed in Issue 109)	369
112	(Subsumed in Issue 109)	369
113	(Subsumed in Issue 109)	369
114	(Subsumed in Issue 109)	369
115	(Subsumed in Issue 109)	369
116	(Subsumed in Issue 109)	369
116A	Gains on sale of utility assets (Prestwood).....	370
117	(Subsumed in Issue 109)	373

118	(Intentionally Blank)	373
119	Transfer of the FPL-NED assets (Prestwood)	374
120	Storm damage reserve (Prestwood)	376
121	Fossil dismantlement accrual (Gardner, P. Lee)	383
122	Rate Case Expense (Prestwood)	385
123	(Approved Stipulation)	389
124	Energy Conservation Cost Recovery Clause (Prestwood)	390
125	Capacity Cost Recovery Clause (Prestwood)	392
126	Incremental hedging costs recovered through Fuel Cost Recovery Clause (Prestwood, Lester, Barrett)	394
127	(Approved Stipulation)	398
128	O&M Expense (Prestwood)	399
129	Customer Information System (Gardner, P. Lee)	401
130	Capital expenditure reductions (Gardner, P. Lee)	404
131	Depreciation Expense adjustment (Gardner, P. Lee)	406
132	Taxes Other Than Income Taxes (Prestwood)	409
133	The American Recovery and Reinvestment Act (Clemence)	411
134	Income Tax Expense (Prestwood, Springer)	414
135	Projected Net Operating Income (Prestwood)	417
	REVENUE REQUIREMENTS	418
136	Revenue expansion factors (Prestwood)	418
137	Annual operating revenue increase (Prestwood)	420
138	(Intentionally Blank)	422
	COST OF SERVICE AND RATE DESIGN	423
139	Revenues calculated at current rates for 2010 and 2011 (A. Roberts)	423
140	Distribution cost methodology (Kummer)	425
141	Cost of Service Methodology (Draper)	432
142	Change in revenue requirement (Draper)	436
143	(Approved Stipulation)	441
144	Service charges (Thompson)	442
145	Late payment charge (Piper)	446
146	(Approved Stipulation)	449
147	(Approved Stipulation)	449
148	Termination factors (A. Roberts)	450
149	(Approved Stipulation)	452
150	Present Value Revenue Requirement (A. Roberts)	453
151	(Approved Stipulation)	455
152	Relamping option (Piper)	456
153	(Approved Stipulation)	458
154	Transformation Rider (Piper)	459
155	Monthly fixed charge carrying rate (Piper)	461
156	Monthly Rental Factor (Piper)	463
157	Termination factors (Piper)	465
158	(Approved Stipulation)	467
159	Customer Charges (Thompson)	468
160	Demand Charges (Draper)	470
161	Energy Charges (Draper)	473

162	Lighting Rate Charges (A. Roberts)	474
163	Standby and Supplemental Services Rate Schedule (Draper)	475
164	Interruptible Standby and Supplemental Services Rate Schedule (Draper)	476
165	HLFT Rates (Kummer)	477
166	CILC Rate (Kummer)	481
167	CDR Credit (K. Lewis, Garl, Draper)	486
168	Time of Use Rates Design (Kummer, Draper)	489
169	(Intentionally Blank)	494
170	Prepayment Option (Draper)	495
171	(This issue references legal standards)	498
172	(FPL's Revised Rates and Charges (Kummer, Draper)	499
173	Nuclear Uprates (Prestwood)	500
173A	LED Street Lighting Alternative (Draper)	502
174	(Intentionally Blank)	504
175	(This issue references the DSM Goals Docket)	504
176	(Approved Stipulation)	504
177	Close Docket (Bennett)	505
	Schedule 1A	506
	Schedule 1B	507
	Schedule 2A	508
	Schedule 2B	509
	Schedule 3A	510
	Schedule 3B	511
	Schedule 4A	512
	Schedule 4B	513
	Schedule 5A	514
	Schedule 5B	515
	Apprndix 1	516

Case Background

This proceeding commenced on March 18, 2009, with the filing of a petition for a permanent rate increase by Florida Power & Light Company (FPL or Company). The Company is engaged in business as a public utility providing electric service as defined in Section 366.02, Florida Statutes (F.S.), and is subject to the jurisdiction of the Commission. FPL provides electric service to approximately 4.5 million retail customers in all or parts of 35 Florida counties.

FPL has requested an increase in its retail rates and charges to generate \$1.044 billion in additional gross annual revenues, effective January 4, 2010. This increase would allow the Company to earn an overall rate of return of 8.00 percent or a 12.50 percent return on equity (range 11.50 percent to 13.50 percent). The Company based its request on a projected test year ending December 31, 2010. FPL stated that this test year is the appropriate period to be utilized because it best represents expected future operations. FPL has also requested a \$247.4 million subsequent year base rate increase effective January 2011. This additional increase would allow the Company to earn an overall rate of return of 8.18 percent or a 12.50 percent return on equity (range 11.50 percent to 13.50 percent). The Company based its subsequent year request on a projected test year ending December 31, 2011. FPL did not request any interim rate relief. Order No. PSC-09-0351-PCO-EI, issued May 22, 2009, in this docket, suspended the proposed final rates.

In FPL's most recent base rate proceeding in Docket No. 050045-EI,¹ the Commission approved a stipulation and settlement agreement (2005 Settlement Agreement). The agreement provides that retail base rates will not increase during the term of the agreement except for the recovery of the revenue requirements associated with certain power plants that go into service during the term of the agreement.

The Office of Public Counsel (OPC), the Office of the Attorney General (AG), the Florida Industrial Power Users Group (FIPUG), The Florida Retail Federation (FRF), the Florida Association for Fairness in Rate Making (AFFIRM), the Federal Executive Agencies (FEA), the South Florida Hospital and Healthcare Association (SFHHA), the Associated Industries of Florida (AIF), the City of South Daytona, Florida (South Daytona), the I.B.E.W. System Council U-4 (SCU-4), the FPL Employees Intervenors (Employee Intervenors), and Richard Unger (Unger) intervened in this proceeding. South Daytona and FEA filed statements of position in lieu of briefs and are identified as having "No position" in each individual issue. The Employee Intervenors, SCU-4, and Unger did not file either statements of position or briefs and are not listed in each individual issue.

The 9 customer service hearings were held at the following locations and dates: Sarasota and Ft. Myers, June 19, 2009; Daytona Beach, June 23, 2009; Melbourne and West Palm Beach, June 24, 2009; Ft. Lauderdale and Miami, June 25, 2009; and Miami Gardens and Plantation, June 26, 2009. The Technical Hearing was held in Tallahassee on August 24-28 and 31, 2009, September 2-5, 16 and 17, 2009, and October 21-23, 2009.

¹ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.

Date: December 23, 2009

On October 2, 2009, Governor Charlie Crist sent a letter requesting that the Commission postpone its decision on the rate increase until the two newly appointed Commissioners took office. All parties were invited to brief the Commission on the topics of whether the Commission could postpone the decision on the rate case, and whether FPL could implement rates, subject to refund, if the hearing was postponed. FPL, OPC, FRF, AG, SFHHC, and AIF filed memoranda on the issues. Staff's recommendation regarding the Governor's request was considered at the October 27, 2009, Agenda Conference. Per Order No. PSC-09-0753-PCO-EI, issued November 16, 2009, in this docket, the Commission determined that the decision of the rate case could be postponed. The Commission further found that FPL's Stipulation prohibited it from increasing its rates on January 1, 2010, subject to refund.

This recommendation addresses the requested permanent rate increase. The Commission has jurisdiction over this matter pursuant to Chapter 366, F.S., including Sections 366.041, 366.06, 366.07, and 366.076, F.S.

Approved Stipulations

The Commission has previously approved several stipulated issues. The stipulated issues are reflected later in the recommendation as "Stipulated" in sequential order of the approved numbering of the issues, pursuant to the Prehearing Order No. PSC-09-0573-PHO-EI, issued August 21, 2009, and subsequent decisions by the Commission at the Technical Hearing held on August 24-28 and 31, 2009, September 2-5, 16 and 17, 2009, and October 21-23, 2009. A completed list of all previously approved stipulations is contained in Appendix 1.

Discussion of Issues

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?

Recommendation: Yes. The Commission has the legal authority to approve a base rate increase using a 2010 projected test year. The Supreme Court has long-settled the issue of the use of projected test years and the Commission has exercised its authority to use projected test years where appropriate. (Bennett)

Position of the Parties

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.

OPC: OPC has not contested the authority of the Commission to approve a base rate increase using a 2010 projected test year in this proceeding.

AFFIRM: No position.

AG: Yes. Adopt OPC’s position.

AIF: Yes. AIF supports FPL’s position that the Commission has the legal authority to approve a base rate increase using a 2010 projected test year.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Yes.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

The Commission's Prehearing Order (PHO) requires each party to file a post-hearing statement of issues and positions. The Order requires the parties to prepare a summary of each position, set off by asterisk. As indicated in the case background, several parties filed no post-hearing statement of issues and positions. Two other parties filed a short post-hearing statement of position and did not include the required summary for each position. For those two parties, the post-hearing summary of position for all issues is included as "No position."

Among the parties that filed the required summary, there is no dispute that the Commission has the legal authority to approve a base rate increase using a 2010 test year. In its brief, FPL cites the cases of Southern Bell Tel. & Tel. Co. v. Public Service Commission, 443 So. 2d 92 (Fla. 1983) (Southern Bell); and Floridians United for Safe Energy, Inc. v. Public Service Commission, 475 So. 2d 241 (Fla. 1985) (Floridians United), to support the Commission's authority to use a projected test year. According to FPL, the Florida Supreme Court unanimously affirmed the Commission's authority to use a projected test year. (FPL BR 16) FPL states that Rule 25-6.140, F.A.C., codified the Supreme Court's decision in Southern Bell by requiring the utility to give an explanation for the test year if the utility chooses to select a projected test year. FPL asserts that the Commission has permitted the use of projected test years in numerous electric base rate proceedings.

ANALYSIS

The Commission clearly has authority to consider a projected test year in setting revenue requirements and rates. In 1983, the Florida Supreme Court settled the issue of the Commission's use of projected test years in setting rates:

Section 364.035(1), Florida Statutes (1981) [telecommunications], provides that the Commission has the authority to fix "just, reasonable, and compensatory rates." Nothing 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.

Southern Bell at 97. Likewise, the Commission has the authority to fix "just, reasonable, and compensatory rates" for investor-owned electric utilities. Section 366.041(1), F.S. A comparison of Section 364.035(1) to 366.041(1), F.S., reveals virtually identical language for the two different industries. In 1985, the Florida Supreme Court acknowledged the Commission's inherent authority to combat regulatory lag by considering and recognizing factors which affect future rates and to grant rate increases based on those factors. Floridians at 242. As set forth in

FPL's brief, the Commission has on numerous occasions over the past 20 years used the projected test year method of accounting to set rates for electric utilities.²

CONCLUSION

The Commission has the legal authority to approve a base rate increase using a 2010 projected test year. The Supreme Court has long-settled the issue of the use of projected test years and the Commission has exercised its authority to use projected test years where appropriate.

² See Order No. PSC-02-0787-FOF-EI, issued June 10, 2002, in Docket No. 010949-EI, In re: Request for rate increase by Gulf Power Company, for an evaluation by the Commission of the use of projected versus historic test years and the benefits and drawbacks of each method.

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

Recommendation: Yes. Staff recommends that the Commission use the projected 2010 year proposed by FPL with the adjustments recommended by staff, as the test year in this case. (Prestwood)

Position of the Parties

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.

OPC: While OPC believes that the 2010 projections are less reliable than the 2009 data, OPC will not object to the use of the 2010 Test Year in this proceeding.

AFFIRM: No position.

AG: Support OPC's position.

AIF: Yes. AIF supports FPL position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Yes.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL is proposing to utilize a fully projected 2010 test year as the basis for its overall jurisdictional revenue requirement calculation. Generally, the periods covered in FPL's MFRs in support of its application are the 2008 historical year, 2009 Prior Year, and 2010 Test Year. FPL filed its MFRs based upon forecasts completed in late 2008. (TR 3621)

The Company's last general base rate increase application was settled with the stipulation approved by Commission Order No. PSC-05-0902-S-EI³. The stipulation provided that FPL's base rates were to remain unchanged, excluding increases in base rates due to a Generation Base

³ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Application for a rate increase by Florida Power & Light Company.

Rate Adjustment (GBRA), for a minimum term of four years ending December 31, 2009. FPL has requested an increase in base rates effective January 1, 2010. FPL Witness Ousdahl testified that a 2010 test year would be the first twelve months in which the new rates would be in effect. Also, the projected 2010 test year coincides with the effective date of FPL's 2009 dismantlement and depreciation studies. (TR 3622)

OPC witness Brown testified that while OPC believes that the 2010 projections are less reliable than the 2009 data, OPC will not object to the use of the 2010 Test Year in this proceeding. (TR 2416)

No other party presented testimony concerning the selection of 2010 as the appropriate projected test year.

ANALYSIS

As the Commission has noted in prior dockets, there are primarily two options the Commission may use in evaluating a utility's rate case. The two options are the historic test year and the projected test year. Both options have strengths and weaknesses. In determining to use the projected test year for Gulf⁴ in its 2001 rate request, the Commission stated:

The historical test year has the advantage of using actual data for much of rate base, NOI, and capital structure; however, the pro forma adjustments usually do not represent all the changes that occur from the end of the historical period to the time new rates are in effect. Therefore, this option generally does not present as complete an analysis of the expected financial operations as a projected test year.

The main advantage of a projected test year is that it includes all information related to rate base, NOI, and capital structure for the time new rates will be in effect. However, the data is projected and its accuracy depends on the Company's ability to use the forecast for setting rates.

In granting the use of the projected test year, the Commission acknowledged that extensive discovery was conducted on the forecasts, and with adjustments, were appropriate. The accuracy of FPL's 2010 forecasts is discussed more extensively in Issue 3.

The projected test year methodology uses forecasted data for a 12-month period to match average revenues and expenses with average rate base investment. The proposed 2010 test year will result in a matching of FPL's revenues to be produced, during the first twelve months in which the new rates would be in effect, with average rate base investment and average expenses for the same period. Also, the projected 2010 test year will incorporate the effects of FPL's 2009 dismantlement and depreciation studies, whose effective dates coincide with the effective date of new base rates. (TR 3622) This will provide FPL the opportunity to earn the targeted returns established by the Commission in this case. (TR 3622)

⁴ Order No. PSC-02-0787-FOF-EI, issued June 10, 2002, in Docket No. 010949-EI, In re: Request for rate increase by Gulf Power Company.

CONCLUSION

Staff believes that the projected test year of the twelve months ended December 31, 2010, provides the best opportunity for a proper matching of revenues, expenses, and rate base investment for the first twelve months that the new rates will be in effect. Staff recommends that the Commission accept FPL's proposed 2010 year proposed, with the adjustments recommended by staff, as the test year in this case.

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

Recommendation: Yes. FPL's forecasts of customers, kWh, and kW by revenue and rate classes for the 2010 projected test year are appropriate. (Stallcup)

Position of the Parties

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.

OPC: No. FPL's correction to its load forecast for minimum use customers should be adjusted to reflect a 7.42% historical average and its re-anchoring adjustment should be removed. In 2010, FPL's revised net energy for load should be 111,299,656,865 and FPL's revenues should be increased by \$63.942 million. The net reduction in revenue requirements, including reallocation of revenue requirements, is \$63.587 million.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: Yes. AIF supports FPL's position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Adjustments to FPL's forecasts are necessary to reflect the most likely conditions for 2010.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL's 2010 forecast of customers, kWh, and kW was sponsored by FPL Witnesses Dr. Rosemary Morley and Philip Q. Hanser. The two primary elements of FPL's projections are its forecasts of the total number of customers and the Net Energy for Load (NEL). (TR 962-963) FPL forecasts the total number of customers with an econometric model using population and seasonal factors as explanatory variables. (TR 970) FPL forecasts NEL per customer with an econometric model based upon the level of economic activity, weather, and the price of electricity. NEL is then projected by multiplying the customer forecasts by the NEL per customer forecasts. (TR 972-973) FPL relies upon independent sources for its forecast assumptions such as the University of Florida's Bureau of Economic and Business Research

(BEBR) for its population projections, and Global Insight, Moody's Economy.com, and the Florida Legislature for its economic projections. (TR 970; TR 973)

These aggregate forecasts are then broken down into separate revenue class forecasts (e.g. Residential, Commercial, Industrial, etc.) for the number of customers and kWh sales by revenue class. (TR 983-984) These projections are ultimately used to determine the level of test year revenues FPL would earn in 2010 under its current rates and, together with the Company's Revenue Requirement for 2010, determine the amount of rate relief FPL requires.

FPL's forecast was prepared in late 2008 and used historical monthly data from 1990 through October 2008 for its customer forecast, and historical monthly data from 1998 through October 2008 for its NEL per customer forecast. (MFR F-7) FPL's customer forecast relied upon the University of Florida's October 2008 population projections. (TR 970) FPL's economic assumptions used in its NEL model were based upon economic forecasts formulated in the latter half of 2008 from Global Insight, Economy.com and other sources. (TR 975-976)

FPL made several adjustments to the output of its NEL per customer econometric model. First, FPL adjusted for the impact of two wholesale contracts. (TR 980) Second, FPL reduced its NEL forecast to capture the influence of changes in the appliance stock and new energy efficiency standards. After adjusting the NEL forecast for these two effects, FPL made a "re-anchoring" adjustment to the output of its NEL model so that the output of the model equaled the latest available actual 2008 level sales. (TR 977) Finally, FPL adjusted its NEL per customer forecast to capture the impact of the recent escalation in the number of homes left vacant due to the housing crisis. Many of these vacant homes were still active accounts although they consumed only a small amount of electricity. Because FPL believed that the impact of these vacant homes was not fully reflected in the historical data used to estimate the econometric models, FPL adjusted downwards its NEL per customer forecasts to reflect the presence of these "minimal use customers" during 2009, 2010, and 2011. (TR 979)

FPL projects the number of customers to increase by 0.2 percent in 2009, and increase by 0.6 percent in 2010. (TR 971). FPL projects NEL per customer to decrease by 1.7 percent in 2009, and increase by 0.1 percent in 2010. (TR 981-982)

At the hearing, FPL witness Morley testified that FPL's forecast of kWh sales for the first six months of 2009, which includes the adjustments discussed above, was within 0.2 percent of actual sales. (TR 1119; No. 47 in Staff's Composite Exhibit No. 37, BSP 3318-3320) Under cross examination, witness Morley also testified that the forecast presented in the current rate case was also used in FPL's 2009 Ten Year Site Plan, FPL's EnergySecure pipeline need determination case, and in the nuclear power plant cost-recovery docket. (TR 1118)

OPC, AG, FIPUG, and FRF argue in their briefs that the adjustments FPL made to the output of the NEL per customer econometric model are not appropriate. (OPC BR 10-11; AG BR 3; FIPUG BR 7; FRF BR 82) In OPC's brief, which the AG, FIPUG, and FRF support, OPC recommends that FPL's "re-anchoring" be eliminated altogether because it is immaterial, and that the adjustment for "minimal use customers" should be recalculated using a higher percent to represent the normally occurring rate of "minimal use customers" in FPL's service territory. Taken together, these two adjustments to FPL's load forecast would increase test year revenues by \$63.942 million. (OPC BR 11)

OPC's position is based upon the testimony of OPC witness Sheree Brown. With respect to FPL's "re-anchoring" adjustment (which is designed to eliminate any model error inherent to any econometric forecast by equating the output of the model to the latest available actual data), witness Brown observed that since the increase in the number of "minimal use customers" began in 2008, the historical database used to estimate the econometric model already contained some variation in NEL attributable to this increase. Therefore, the output of the NEL model would already reflect to some extent the impact of "minimal use customers". Witness Brown concludes from this observation that the "re-anchoring" adjustment and the adjustment for "minimal use customers" as calculated by FPL are duplicative resulting in underestimating 2010 NEL. (TR 2445-2446)

With respect to the adjustment for "minimal use customers", OPC witness Brown testified that the measurement of the percentage of customers who normally use a minimal amount of electricity should be based upon data spanning a longer period such as from September 2002 through December 2007, instead of the shorter time period of August 2003 through December 2004 used by FPL. (TR 2448-2449) According to witness Brown, the use of the longer time period would result in increasing the percentage of normally occurring "minimal use customers" from 7.0 percent to 7.42 percent.

OPC witness Brown recommended an alternative methodology to implement the "re-anchoring" and "minimal use customer" adjustments. (TR 2450-2452) To remove any duplicity between the "re-anchoring" and "minimal use customer" adjustments, witness Brown recommends adjusting the 2008 output of the NEL model for the impact of "minimal use customers" in that year, then performing a "re-anchoring" adjustment to remove any remaining modeling error. According to witness Brown, by performing the "minimal use customer" adjustment to 2008 reduces the size of the model error for 2008 from -1.29 percent to -0.075 percent. (TR 2453) Since the resulting model error of -0.075 percent is so small, OPC witness Brown recommends that the "re-anchoring adjustment" designed to remove the model error, be eliminated.

Also included in OPC witness Brown's alternative methodology is the use of 7.42 percent as the appropriate estimate of the normally occurring rate for "minimal use customers". Because the adjustment to reflect the abnormal loss of sales attributable to these customers depends on what is considered a normal rate of "minimal use customers", adoption of 7.42 percent instead of FPL's 7 percent as the norm means that the "minimal use customer" adjustment would be smaller under OPC witness Brown's alternative methodology.

FPL witness Morley, in her rebuttal testimony, disagreed with OPC witness Brown's assertion that the "re-anchoring" and "minimal use customer" adjustments used by FPL were not applied correctly. Witness Morley defended her approach to implementing these adjustments by noting that FPL's methodology results in a forecast error of only +0.1 percent through midyear 2009, while OPC witness Brown's methodology results in a forecast error for the same period of approximately -1.5 percent. (TR 5843)

ANALYSIS

In its review of the record, staff evaluated the forecast models and assumptions submitted in the Company's MFRs and supported by FPL witness Morley. The forecast models and

assumptions are the same as those filed in FPL's 2009 Ten Year Site Plan and FPL's EnergySecure Pipeline need determination case. (TR 1118) Staff reviewed the forecast models in these prior proceedings as well as in the current rate case and believe that they are appropriate. In addition, staff reviewed the forecast assumptions for 2009 and 2010 and believe that they represent a reasonable economic scenario for the 2010 test year. This scenario envisions the most severe decline in economic activity in early 2009, followed by a modest decline in 2010, and a gradual recovery beginning in 2011. (TR 974) Staff believes that this represents a reasonable "middle of the road" economic scenario for the 2010 test year containing neither a continuing severe downturn into 2010, nor a vigorous economic rebound. Therefore, staff believes that FPL's models and economic assumptions for the 2010 test year are appropriate. Furthermore, no party took a position that FPL's forecast models or assumptions for the 2010 test year were inappropriate.

Staff also evaluated the criticisms raised by OPC witness Brown concerning the "re-anchoring" and "minimal use customer" adjustments FPL made to the output of the econometric model for NEL. Staff agrees with OPC witness Brown that, to some extent, FPL's "re-anchoring" and "minimal use customer" adjustments are duplicative. As noted by FPL witness Hanser, the impact of "minimal use customers" began to be felt in March 2008 when the NEL model began to consistently over forecast actual NEL. (TR 1163) Since the period from March 2008 to October 2008 is contained within the historical database upon which the NEL model was estimated, staff agrees with OPC witness Brown that, to some extent, the model does incorporate some of the impact of "minimal use customers." However, staff also notes that these eight months in 2008 represent only a small percentage of the data points contained in the ten year historical database used to estimate the NEL model. Therefore, the estimation process for the model would much more heavily reflect periods of time when "minimal use customers" were not problematic. Therefore, staff does not believe that any duplicity that may exist between the "re-anchoring" and the "minimal use customer" adjustments necessarily represent a material error in FPL's methodology.

The second argument raised in OPC's brief was that the 7.0 percent baseline for "minimal use customers" should be changed to 7.42 percent. This argument is based on the assertion that it is better to use a longer time period to measure the average level of minimum use customers. (TR 2448-2449) In her rebuttal testimony, FPL witness Morley defends her estimate of 7.0 percent by noting that the 2003-2004 time period upon which her estimate was based corresponds to a period of time in which the U.S. Census Bureau shows that vacancy rates in Florida were very close to its long term average. (TR 5848) Furthermore, FPL witness Morley testified that U.S. Census Bureau data indicates that using the time period of September 2002 through December 2007 as recommended by OPC witness Brown would include those years when vacancy rates in Florida were above its long term average. (TR 5849-5850) Although staff generally believes that using a longer time period is preferable when measuring long-term averages, in this instance, staff believes that FPL's estimate of 7.0 percent is more appropriate than OPC's estimate of 7.42 percent. Using OPC's recommended time period of 2002-2007 would include years during which the housing bubble occurred, thereby distorting the number of vacant houses. Furthermore, staff agrees that selecting a time period based on U.S. Census Bureau vacancy rates in Florida provides a strong rationale for the 2003-2004 time period.

Finally, staff considered the accuracy of FPL's forecasts through the first half of 2009. As shown in a response to a staff Request for Production of Documents (No. 47 in Staff's

Date: December 23, 2009

Composite Exhibit No. 37, BSP 3318-3320), FPL's forecasts for the number of customers and total gWh sales were within 0.2 percent of actuals. Furthermore, FPL witness Morley testified in her rebuttal testimony that FPL's 2009 year-to-date NEL forecast was within 0.04 percent of the weather adjusted actuals through June of 2009. Witness Morley also noted that OPC's proposed adjustments to FPL's forecasts would have resulted in over-forecasting NEL by approximately 1.5 percent. (TR 5843) Staff believes that the year-to-date accuracy of FPL's forecast indicates that FPL's forecast assumptions and methodologies, including FPL witness Morley's "re-anchoring" and "minimal use customer" adjustments, are appropriate.

CONCLUSION

Based on the foregoing, staff recommends that FPL's 2010 forecast of customers, kWh, and KW are appropriate for rate setting purposes.

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?

Recommendation: Yes. The Commission has the legal authority pursuant to statute, rule and case law, to grant a subsequent year adjustment if the facts warrant such an adjustment. Issue 5 addresses the policy of granting a subsequent year adjustment in this docket. Issue 6 addresses whether there is factual support for a subsequent year adjustment in this docket. (Bennett)

Position of the Parties

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).

OPC: Especially in view of the uncertainties associated with the economic downturn, the predictions offered by FPL are too speculative to form a basis on which to fix rates for 2011. OPC asserts that an attempt by the Commission to do so would amount to an unlawful abuse of discretion.

AFFIRM: No position.

AG: No. Support OPC's position. The future of Florida citizens should not be based on anything this speculative.

AIF: Yes. AIF supports FPL's position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No, not in this case. FPL's projections are too speculative to support a ratemaking finding related to rates in 2011. Any finding based on such projections would not be based on competent substantial evidence and would be an unlawful abuse of discretion.

FRF: The FRF agrees with OPC that, as matters of fact, FPL's projections and assumptions are too speculative to amount to competent substantial evidence sufficient to impose such a tremendous burden on FPL's customers. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: Supports the position of FRF.

Staff Analysis:

PARTIES' ARGUMENTS

FPL contends that Section 366.072(2), F.S., and Rule 25-6.0425, F.A.C., authorize Subsequent Year Adjustments such as that proposed by FPL in requesting an additional increase in 2011. FPL states that there is no restriction on the time period that may be used for the projected test year and it concludes that according to Southern Bell, the Commission has the authority to approve a rate increase to go into effect in 2011 based on a 2011 test year. FPL also asserts that Floridians United confirmed the authority of the Commission to make a subsequent year adjustment. (FPL BR 19)

OPC asserts that it does not object to the concept of a subsequent test year on legal grounds per se. Rather, OPC disputes the validity of the application of a subsequent test year to this particular docket. Although each of the intervenors that took a position objects to the use of a subsequent year adjustment, the basis of their objections is whether the facts support such a subsequent year adjustment. In other words, the intervenors do not appear to debate whether the Commission has the legal authority to grant a subsequent year adjustment, but rather whether in this particular rate request the Commission should, from a policy and from a factual standpoint, grant a subsequent year adjustment. Staff will address the issue of whether, from a policy perspective, the Commission should grant the 2011 subsequent year adjustment in Issue 5. In Issue 6, staff will address whether FPL has met its burden of proof to establish a subsequent year adjustment.

ANALYSIS

Issue 4 simply asks whether the Commission has the legal authority to approve a subsequent year adjustment. The answer is yes, if the facts support the subsequent year adjustment. The legal ability of the Commission to use a subsequent year adjustment has been confirmed by the legislature, the Commission, and the Florida Supreme Court. In 1983, the Legislature enacted the following amendment to Chapter 366:

The commission may adopt rules for the determination of rates in full revenue requirement proceedings which rules provide for adjustments of rates based on revenues and costs during the period new rates are to be in effect and for incremental adjustments in rates for subsequent periods.

Section 366.076(2), F.S. In 1987, the Commission adopted Rule 25-6.0425, F.A.C., allowing the Commission in a full revenue requirements proceeding, to approve incremental adjustments for periods subsequent to the initial period in which new rates will be in effect.

The Florida Supreme Court, in the case of Floridians United, held that even without the authority of Section 366.076, F.S., the Commission had the authority to approve subsequent year adjustments. The case on appeal to the Supreme Court was from a Commission order granting FPL a 1984 rate increase and a subsequent year adjustment for 1985. While the appellants challenged the constitutionality of the statute (Section 367.076, F.S.) used by the Commission as authority to grant the subsequent year adjustment, the Court never reached that issue. Rather, the

Date: December 23, 2009

Supreme Court agreed that the Commission had authority to grant subsequent year adjustments even prior to the legislative enactment of Section 367.076(2):

We agree that PSC's authority to grant subsequent year adjustments predated the enactment of chapter 83-222 and it is therefore unnecessary to address the constitutionality of the chapter. [citations omitted]

Id.

On several occasions, the Commission has used subsequent year adjustments. In 1994, TECO requested a projected test year of 1993 and a subsequent test year of 1994. The Commission stated that it had authority to do so and that the facts supported the Commission's approval of the 1994 subsequent year adjustment for TECO. See Order No. PSC-93-0165-FOF-EI, issued February 2, 1993, in Docket No. 920324-EI, In re: Application for a rate increase by Tampa Electric Company. Accordingly, if the facts of the docket support the Commission's grant of a subsequent year adjustment, then the Commission has the legal authority to do so.

CONCLUSION

The Commission has the legal authority pursuant to statute, rule and case law, to grant a subsequent year adjustment if the facts warrant such an adjustment. Issue 5 addresses the policy of granting a subsequent year adjustment in this docket. Issue 6 addresses whether there is factual support for a subsequent year adjustment in this docket.

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

Recommendation: No. Staff recommends that FPL's request for a subsequent increase in January 2011 be denied. While staff is recommending that the 2011 subsequent test year be denied, numerous issues contained in this recommendation address adjustments to the 2011 subsequent test year. In issues that address the subsequent test year, staff has included the amount of the adjustments for illustrative purposes. (Prestwood)

Position of the Parties

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.

OPC: No. The assumptions used in developing the 2011 revenue requirements reflect an unacceptable level of economic uncertainty. See OPC's position on Issues 4 and 6.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: Yes. AIF supports FPL's position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. This request is an objectionable "pancaking" of two separate and distinct rate cases into one proceeding. Further, FPL's 2011 projections are highly speculative as they are based on projections made in 2008 and cannot be prudently relied upon as reasonable projections upon which to base rates in 2011.

FRF: No.

SFHHA: No. The Commission cannot determine at this time what the reasonable revenues and costs will be in 2011. Further, there is no evidence that there will be actual savings to ratepayers resulting from avoidance of a separate proceeding sometime in 2010 for rates that would be effective in 2011.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Olivera explained that the Company is requesting a subsequent increase in base rates effective January 1, 2011, to address the deterioration in earnings that will take place during 2010. According to witness Olivera, the subsequent year adjustment allows the

Date: December 23, 2009

Company, the Commission and all parties to address in a single proceeding both the 2010 and 2011 needs, avoiding the time and expense of a separate rate proceeding for 2011. (TR 199)

FPL Witness Barrett testified that:

Given the significant time and financial resource commitments involved in fully litigated base rate proceedings, the Commission, the Company, and other stakeholders would benefit by minimizing the frequency of these costly proceedings. One mechanism by which the Commission can address this issue is through the use of a Subsequent Year Adjustment for 2011, the year following the Test Year.

(TR 1217)

FIPUG witness Pollock explained that the request for an additional increase in 2011 is an objectionable pancaking of two separate rate cases in a single proceeding. (TR 2963) He testified:

The “subsequent year adjustment” is a filing that looks, feels and smells like a full rate case. First, the “subsequent year adjustment is not a proposal to adjust rates based on a specific occurrence or event, such as what might be addressed in a limited proceeding. Rather, it is a second rate filing in which FPL seeks to have increased rates put into effect to cover all manner of cost increases... .

(TR 2964)

Witness Pollock also testified:

Such back-to-back rate increases fail to properly balance the utility’s needs with the needs of its customers. Assuming its 2011 assumptions are accurate (which FIPUG disputes), FPL is really asking the Commission to guarantee that it will achieve the authorized return. Providing such a guarantee is contrary to accepted regulatory practice, which is an opportunity to earn the authorized return.

(TR 2965-2966)

According to SFHHA witness Kollen, there is no evidence that there will be actual savings to ratepayers resulting from the avoidance of a separate proceeding sometime in 2010 for rates that will be effective in 2011. If the Company’s 2011 test year costs are reduced as the result of the Company’s cost cutting efforts compared to its projections for 2011, then the cost of a separate proceeding in 2010 is likely to pale against the effect of such savings in a subsequent proceeding. (Kollen TR 3112)

ANALYSIS

Staff agrees with FIPUG’s assertion that States that make use of a projected test years, like Florida, typically only attempt to look one year into the future. FPL is asking the

Commission to look far beyond the horizon, into 2011, and raise consumers' rates not only in 2010 based on a 2010 projected test year, but to raise consumers rates again in 2011 based on speculative and untested projections for a 2011 subsequent projected test year. (TR 1220-1221) These test years were developed in 2008. The speculative nature of the 2011 test year is discussed in more detail in Issue 6. (FIPUG BR 2)

As discussed in Issue 4, the Commission has the authority to allow the use of a subsequent test year and grant a subsequent increase based on a subsequent test year. However, the burden of proof is on the utility, as to the reliability of its projections, and the necessity of the back-to-back rate increase. (OPC BR 14)

As one reaches farther into the future, predictions and projections of future economic conditions become less certain and more subject to the vagaries of changing variables. This is particularly true, given that for 2010, FPL projected results based upon the assumption of a "down economy," and for 2011 projected results based upon a "down economy just beginning to recover." (TR-5943-5944; OPC BR 15).

Staff believes that back-to-back rate increases should be allowed only in extraordinary circumstances. Historically, the Commission has used the test year concept for setting rates. Under this concept, the test year, is deemed to be representative of the future and used to set rates the will allow the utility the opportunity to earn a rate of return within an allowed range. If the test year is truly representative of the future, then the utility should earn a return within the allowed range for at least the first 12 months of new rates.

The subsequent increase requested in this case is based on a second projected test year of 2011 and is in fact a second full rate case filing. FPL claims that this second case is necessary "to address the deterioration in earnings that will take place during 2010." (TR 199)

However, it is important to note here that filing two general rate cases with back-to-back projected test years deprives the Commission and the Company's ratepayers of the benefit of an additional twelve months of actual economic data and operating history of the Company. This additional data could be used to validate whether an additional increase is truly necessary and whether the second test year is really representative of the future.

The Company's ratepayers deserve a full investigation into the cause of FPL's claimed deterioration of its earnings. Two general rate increases that are barely twelve months apart justify the time and expense of a second separate proceeding. Two back-to-back general rate increases are especially of concern when one considers that the need for base rate increases has already been reduced for FPL due to the effect of the cost recovery clauses.

Cost recovery clauses provide for approximately 61 percent of FPL's revenue and reduce the risk of under-recovery of a substantially portion of FPL's operating costs. (TR 2421) The recovery of costs through the clauses should limit the need and frequency of full rate cases for FPL. (FIPUG BR 12)

Furthermore, there is no evidence that ratepayers would receive any savings by avoiding a separate rate proceeding sometime in 2010 for rates that would be effective in 2011. FPL

Witness Barrett admitted that FPL did not perform a cost-benefit analysis to examine whether the costs of a rate case outweighed savings that could result from re-examining changing costs. (TR 3112; SFHHA BR 14)

Because of unpredictable changes in the economy, it is certainly possible that FPL's perceived need for a 2011 base rate increase could be offset by changes in sales growth, billing determinants, additional Stimulus Bill benefits, and other cost-decreasing measures. At a time when Florida's ratepayers have been hit hard by the downturn in the economy, it makes sense to wait and see if a subsequent rate case is justified. FPL's claim that it will need a rate increase in 2011 simply is too speculative, and should be rejected. (SFHHA BR 14-15)

CONCLUSION

Staff recommends that the request for a subsequent increase be denied. If the Company is unable to earn within its allowed range of return, it has the option of filing for a base rate increase including a request for interim rate relief. At that time, the Commission will have more actual data to assess the reasonableness of FPL's request.

Date: December 23, 2009

Issue 6: Is FPL's projected subsequent year test period of the 12 months ending December 31, 2011, appropriate?

Recommendation: No. FPL's projected subsequent test year of 2011 is not appropriate. Staff recommends that FPL's request for a subsequent increase in January 2011 be denied. While staff is recommending that the 2011 subsequent test year be denied, numerous issues contained in this recommendation address adjustments to the 2011 subsequent test year. In issues that address the subsequent test year, staff has included the amount of the adjustments for illustrative purposes. (Prestwood)

Position of the Parties

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.

OPC: No. The 2011 test year, which FPL prepared in 2008, incorporates an unacceptable level of speculation. Rather than advancing and meeting burden of proof, FPL wants to shift the risk of future uncertainty from the utility to FPL's customers. That is not the way regulation works.

AFFIRM: No position.

AG: No. Support OPC's position. The changing economic conditions are too uncertain and it would not be in the best interest of the consumers to use a speculative 2011 projection.

AIF: Yes. AIF supports FPL's position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. This request is the inappropriate bundling of two separate and distinct rate cases into one proceeding. Further, FPL's 2011 projections are highly speculative as they are based on projections made in 2008 and cannot be prudently relied upon as reasonable projections upon which to base rates in 2011. If FPL can demonstrate its need for rate relief in 2011, it may file a rate case with all supporting documentation at the appropriate time.

FRF: No. The FRF agrees with OPC that, as matters of fact, FPL's projections and assumptions for 2011 are too speculative and uncertain to constitute competent substantial evidence sufficient to impose such a tremendous burden on FPL's customers.

SFHHA: See response to Issue 5.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Barrett explained that the Company provided forecasted information for 2009, 2010, and 2011 for use in this proceeding. The Company included 2011 year data in support of its requested Subsequent Year Adjustment. According to witness Barrett, FPL applied the same rigor to its forecast of 2011 as it did for 2009 and 2010, to be confident that the costs proposed are appropriate for setting rates in this proceeding. (TR 1216-1218)

Witness Barrett testified that:

FPL follows a rigorous and long standing process in the development and approval of its O&M and capital expenditures budgets, financial forecasts and MFRs. The process began with the development and approval of the Company's planning and budget assumptions. These assumptions include assumptions for inflation, customer growth, new service accounts, pay programs, postage, vehicle reimbursement rates and other miscellaneous items.

(TR 1219)

FPL witness Barrett stated that final approvals for these forecasts were made in late 2008 and reflected the Company's best assessment of the business environment. (TR 1220) Discussing the prevailing business environment at the time the forecasts were being finalized, witness Barrett testified that "All of these factors have combined to plunge Florida into an economic deterioration not seen since the early 1970s. [. . .] Every major assumption used in the forecast reflects the severe economic downturn." (TR 1228)

OPC challenges the approval of FPL's 2011 test year as being too speculative. (OPC BR 15) In its position statement, FRF agrees with OPC that as to matters of fact, FPL's projections and assumptions are too speculative to amount to competent substantial evidence sufficient to grant FPL's request for a 2011 rate increase. (FRF BR 82) According to FRF, because of the uncertainties associated with the economic downturn, and the uncertainties associated with the timing and degree of the anticipated recovery, FPL's projections for 2011 are too speculative to form the basis upon which to increase rates for 2011. FRF argued that even FPL's forecasting witness recognized that forecasts are less accurate the further into the future they are made. (FRF BR 71).

The assumptions that FPL relied upon for 2011 regarding the status of the economy shows the frailty of FPL's projections. (OPC BR 15) OPC witness Brown testified that "The farther into the future that a utility attempts to project data, there is a greater amount of uncertainty and the data becomes less reliable." (TR 2416) Witness Brown further noted that "This is particularly of concern as our country and the customers in FPL's service territory are facing the current economic crisis. Projections of when and how economic recovery will occur are extremely speculative." (TR 2417)

SFHHA witness Kollen does not believe that the Commission can determine at this time what the reasonable revenues and costs will be in 2011, given the present economic uncertainty:

First, the Commission cannot determine at this time what the reasonable revenues and costs will be in 2011 given the present economic uncertainty. It will be difficult enough to determine the reasonable level of revenues and costs for the 2010 test year, which itself is two years removed from actual experience and is based on a budgeting process covering 2009 and 2010, but which began in mid-2008 prior to the meltdown in the financial markets and the recession. Since 2008, the Company has engaged in extensive cost reductions compared to its 2009 budget, thus rendering the 2009 budget unreliable as the basis for the 2010 test year forecast, and even more so for the 2011 subsequent test year forecast.

(TR 3111)

FIPUG witness Pollock points out that, in effect, FPL is asking the Commission to use its 2011 forecast, produced in mid to late 2008, as sufficient upon which to increase base rates for the year 2011:

The 2011 revenues, expenses, and plant balances represent a forecast prepared in 2008 before the full effect of the economic upheavals that occurred in late 2008 were known. This is simply the second year forecast and not a formal budget. At best, the 2011 costs are a preliminary estimate.

(TR 2970)

FPL witness Barrett asserts in his rebuttal testimony that “[t]he Company’s forecast of 2011 is reliable and there are symmetrical protections for the Company and the customer in the event that variances from the forecasts significantly affect earnings, up or down.” (TR 5924)

ANALYSIS

Staff is concerned with the reliability of the forecasted data used to develop the 2011 test year and subsequent rate increase. FPL has stretched its forecasts far into the future during a period when every major assumption used in the forecast reflects the effects of the most severe economic downturn since the early 1970’s.

The forecasted 2011 test year was prepared in late 2008, when the economic environment was extremely volatile. The last month of the 2011 test year is at least 36 months away from the last actual historical data point when the forecast was prepared. Even in times of economic stability, projections this far in the future strain the reliability and accuracy of data that is needed to set rates.

In the first four months of 2009, the Company experienced a \$38 million budget variance in O&M expenses and a \$169 million budget variance in capital projects. Both of these variances were favorable and were explained by FPL witness Barrett. (TR 5910-5912) However, variances of this magnitude, in the very beginning of a forecast, when projections should be the most accurate, show how unpredicted events and management’s reactions to the actual business

conditions can make projections inaccurate. The further those projections go into the future, the less predictable the underlying assumptions become.

CONCLUSION

FPL's 2011 subsequent test year is highly speculative and should not be used for setting rates for the future. The projection period is too far in the future and was developed in times of great economic instability to have confidence in the integrity of the data. Actual events in 2009 have already shown the potential for significant variance from the projections.

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

Recommendation: No. Staff believes that FPL's forecasts of customers, kWh, and kW by revenue and rate classes for the 2011 projected test year are too speculative and are therefore not appropriate for rate setting purposes. However, should the Commission decide to implement the subsequent year rate increase in 2011, staff recommends that, of the options available in the record, FPL's projections be used. (Stallcup)

Position of the Parties

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.

OPC: No. **Note: OPC opposes FPL's request for a subsequent year adjustment in its entirety.)** FPL's correction to its load forecast for minimum use customers should be adjusted to reflect a 7.42% historical average and its re-anchoring adjustment should be removed. In 2011, FPL's revised net energy for load should be 112,835,431,286 and FPL's revenues should be increased by \$58.067 million. The net reduction in revenue requirements, including reallocation of revenue requirements, is \$57.706 million.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: Yes. AIF supports FPL's position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Such forecasts are highly speculative and cannot be relied upon to set rates.

FRF: No. FPL's forecasts of, and assumptions regarding, 2011 customers and sales factors are too speculative to represent competent substantial evidence that can support such a tremendous burden on FPL's customers, and accordingly, those forecasts are not appropriate.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL's 2011 forecast of customers, kWh, and kW was sponsored by FPL witnesses Dr. Rosemary Morley and Philip Q. Hanser. As discussed in Issue 3, FPL's forecast methodology relies on first forecasting the total number of customers served and Net Energy for Load (NEL) per customer. (TR 963) For the 2011 customer forecast, FPL uses an econometric model using population and seasonal factors as explanatory variables. (TR 970) FPL forecasts NEL per

customer with an econometric model based upon the level of economic activity, weather, and the real price of electricity. FPL relies upon independent sources for its forecast assumptions such as the University of Florida's Bureau of Economic and Demographic Research for its population projections, and Global Insight, Economy.Com, and the Florida Legislature for its economic projections. (TR 970; TR 973) FPL witness Hanser testified that based upon his review of FPL's models, assumptions, and outputs, he concludes that the approach used by FPL to prepare its forecast of monthly NEL and total customers is reasonable. (TR 1152)

FPL projects the number of customers to increase by 0.2 percent in 2009, increase by 0.6 percent in 2010, and increase by 1.3 percent in 2011. (TR 971). FPL projects NEL per customer to decrease by 1.7 percent in 2009, increase by 0.1 percent in 2010, and increase by 0.3 percent in 2011. (TR 981-982)

OPC witness Brown testified that, due to the uncertainty associated with the current economic downturn, economic projections of when an economic recovery will occur are extremely speculative. She also notes that if the economic recovery is either faster or greater than expected under FPL's assumptions, there is a potential for excess earnings at ratepayers' expense. (TR 2417) She concludes by saying that although OPC is willing to accept the uncertainty associated with a 2010 test year, the 2011 test year projections incorporate an unacceptable additional level of uncertainty and should be rejected. (TR 2419)

ANALYSIS

Staff reviewed the forecast models and assumptions for the 2011 test year supported by FPL witness Morley. While staff believes that the forecast assumptions used by FPL result in reasonably conservative growth rates for customers and NEL in 2011, staff shares OPC witness Brown's concern that economic projections formulated in late 2008 and extending through 2011 incorporate an unacceptable level of uncertainty for the purpose of setting rates.

Exhibit 412 is illustrative of staff's concern. This exhibit shows the Low, Medium, and High Case scenarios for the University of Florida's population forecast used in FPL's customer growth model. As this exhibit shows, as the forecast horizon extends further into the future, the range between the Low and High Case scenarios becomes wider. Staff believes that this wider range is indicative of the University of Florida's acknowledgement that its forecast for population growth is subject to more variability as the forecast horizon extends further into the future. Furthermore, as acknowledged by FPL witness Morley under cross examination, the University of Florida revised its population forecast "with some frequency" during 2008. (TR 1040-1041) These revisions, which extended into 2009 (EXH 412), add an additional degree of variability to the population projections as the forecasts bands shift either upward or downward. Because the population projection from the University of Florida is the primary driver in FPL's customer model, increased variability in the 2011 population projection leads to increased variability in the number of customers in 2011. Because of the way FPL's models are structured (see Issue 3), an increase in the variability of the number of customers in 2011 flows through to total NEL, and ultimately to the number of customers and kWh sales by revenue class.

Because there is no empirical data (such as stabilizing customer growth rates) in the record to indicate that the uncertainty associated with the current economic downturn is nearing an end, staff is concerned that during the twelve months of 2010, additional economic volatility

could cause the number of customers and kWh sales in 2011 to deviate significantly from FPL's projections. Therefore, staff is reluctant to recommend that FPL's 2011 forecast for the number of customers, kWh sales, and kW be used for rate setting purposes.

However, in the event that the Commission decides to implement the subsequent year rate increase in 2011, staff would recommend that FPL's projections be used instead of those recommended by OPC witness Brown. This recommendation is based upon the 2009 year-to-date performance of FPL's forecast compared to OPC witness Brown's forecast (see Issue 3).

CONCLUSION

Staff recommends that FPL's forecasts of customers, kWh, and kW by revenue and rate classes for the 2011 projected test year are too speculative and are therefore not appropriate for rate setting purposes. However, should the Commission decide to implement the subsequent year rate increase in 2011, staff recommends that, of the options available in the record, FPL's projections be used.

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?

Recommendation: No. The GBRA should expire as scheduled when new rates are established in January, 2010. The existing ratemaking procedure provided by Florida Statutes and Commission rules provides for a more rigorous and thorough review of the cost and earnings associated with new generating units. (Garl, K. Lewis)

Position of the Parties

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.

OPC: No. The requested GBRA mechanism would allow FPL to avoid regulatory oversight of its overall costs of service by providing an automatic base rate increase when new plant is added regardless of the achieved rate of return. With respect to any eligible power plant in the future, ratepayers would be forced to bear unwarranted increases in base rates if then existing earnings are sufficient to absorb some or all of the costs of the addition.

AFFIRM: No position.

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

AIF: Yes. AIF supports FPL's position that the Commission should approve a GBRA.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Capital additions should not be automatically recovered through the GBRA. If FPL believes that the addition of generating plant necessitates a rate change, it may petition for such a change in a full rate case where the Commission and the parties may examine all of FPL's revenues and expenses.

FRF: No. The Commission should not approve a GBRA for FPL because it would provide for automatic increases in base rates regardless of current conditions – including the utility's achieved rate of return relative to then-current capital market conditions, and other factors affecting the overall reasonableness of the utility's rates – at such time that new power plants are brought into service.

SFHHA: No. The GBRA would allow FPL to over-recover costs because it fails to consider cost reductions that FPL may achieve in other areas, such as increases in accumulated

depreciation or plant retirement. The GBRA would also allow FPL to retain savings from ongoing recoveries of existing plant investment through depreciation, cost-free capital resulting from ongoing accelerated tax depreciation, increases in revenues due to sales growth, and reductions to capital expenditure and expense costs.

Staff Analysis:

PARTIES' ARGUMENTS

FPL's primary justification for proposing continuation of the GBRA was that it sends an appropriate price signal to customers. FPL witnesses explained that the alleged "signal" is the result of the fuel cost reduction from a more efficient new generating unit impacting customers' bills at the same time rates are adjusted, i.e., customers' bills increase to recover FPL's capital expenditures for building the new generating unit. FPL argued that avoidance of costly and time-consuming rate cases is not the purpose of the GBRA, but rate case avoidance is a desirable side-effect. (FPL BR 118) AIF supports FPL's use of the GBRA.

OPC, AG, FIPUG, FRF, and SFHHA did not support use of a GBRA mechanism. OPC believed use of a GBRA mechanism will prevent the Commission from asserting proper oversight of FPL's overall cost of service and will cause ratepayers to bear unwarranted base rate increases if FPL's existing earnings are sufficient to absorb some or all of the costs of plant additions. (OPC BR 21-23) AG adopted OPC's position. (AG BR 4)

FIPUG contended that the GBRA would allow FPL to add new generating plant to rate base without a review of all FPL's costs. In essence, it is an automatic rate increase with no review of whether current revenues are sufficient to absorb some, or all, of the costs of the capital addition. (FIPUG BR 14)

FRF pointed out that "FPL wants to break the concept loose from its moorings and use it in a manner that would abuse customers and enable it to raise its rates without adequate Commission scrutiny of all relevant factors in future rate cases." FRF contended that "the public interest is and will be served better by more frequent rate cases - thereby providing for the 'ultimate true-up' of all of FPL's accounts, accounting practices, costs, and revenues, based on thorough consideration of competent substantial evidence." (FRF BR 74-75)

SFHHA argued, "The GBRA is an exceptional form of ratemaking that was approved under unique circumstances as part of the 2005 Settlement. Absent the attendant benefits that justified that settlement, the GBRA is not a reasonable form of cost recovery for new plant investment. The GBRA would significantly harm ratepayers and undermine the traditional regulatory paradigm, and must be rejected." (SFHHA BR 23) SFHHA argued that use of the GBRA mechanism allows FPL to automatically impose base rate increases to recover selective increases in certain costs without consideration of increases in revenues and reductions in other costs, such as increases in accumulated depreciation or retirement of existing plant. (SFHHA BR 15-23)

ANALYSIS

All intervenors who took a position opposed FPL's use of the GBRA, except AIF. Staff agrees that FPL's request to continue the GBRA mechanism should be denied. The Commission's charge to protect consumers requires more regulatory oversight, not less. It is not possible for the Commission to exercise an equivalent level of oversight within the context of a GBRA mechanism, as compared with the level of scrutiny provided within a traditional rate case proceeding. Staff's recommendation is based on differences between the 2005 settlement agreement and the proposed GBRA, and an evaluation of existing ratemaking policy against the proposed GBRA.

Regulated generating utilities are guided by existing statutes and rules in seeking recovery of capital costs associated with newly constructed generation units. Primary guidance is provided by Section 366.06 (2), F.S. The statute requires that when approved rates charged by a utility do not provide reasonable compensation for electrical service, the utility may request that the Commission hold a public hearing and determine reasonable rates to be charged by the utility. Section 366.071, F.S., provides expedited approval of interim rates until issuance of a final order for a rate change. Rule 25-0243, F.A.C., establishes the minimum filing requirements for utilities in a rate case. These procedures have been sufficient in the past for FPL and other regulated utilities wishing to recover capital expenditures when a new generating facility begins commercial service.

GBRA Background

The Generation Base Rate Adjustment, or GBRA, was one of several elements of a negotiated settlement agreement stipulated to by all parties, and subsequently approved by the Commission, in FPL's 2005 rate case.⁵ The GBRA permitted FPL to increase base rates to recover capital costs associated with new generation facilities as they entered commercial service. The stipulation specified the basis for the costs, as well as the return on equity and capital structure to be used in the calculation of the cost factor to be submitted for Commission approval using the Capacity Clause projection filing. Other elements of the settlement agreement prohibited FPL from petitioning for an increase in retail base rates during the term of the agreement, and established a revenue sharing arrangement between FPL's shareholders and customers. Staff notes that the conditions under which the Commission approved this negotiated settlement agreement are far different from the proposal to establish the GBRA as Commission policy in the current docket.

Differences From the Stipulation

FPL's current request to permanently establish the GBRA differs markedly from the 2005 negotiated settlement agreement that was approved by the Commission.⁶ (TR 3114 – 3116) Acceptance of the GBRA provision of the settlement agreement was contingent upon several provisions, a result of the "give-and-take" in negotiating the agreement. First, the stipulation specified the term of the agreement as effective for a minimum of four years – January 1, 2006, through December 31, 2009 – and to remain in effect until new base rates and charges become

⁵ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company

⁶ Id.

effective by order of the Commission.⁷ FPL's current request to continue the GBRA specifies no end date. Second, FPL's base rates could not change during the term of the settlement agreement; FPL's current request to continue the GBRA specifies no restriction on changes to base rates. And, the negotiated agreement provided a revenue sharing plan between share holders and customers; FPL's current request to continue the GBRA specifies no such revenue sharing arrangement. To date, FPL has flowed \$386,928,000 through the GBRA mechanism for three generating units as a result of the stipulated settlement.⁸ (EXH 167) If the GBRA is made permanent, the amount that FPL proposes to add to rate base under the GBRA mechanism is \$3.2 billion over the next five years.⁹ (TR 4288-4289, EXH 490)

FPL witness Ousdahl acknowledged that the GBRA is materially different from a rate case as it is an interim base rate measure. (TR 3786) Staff agrees that the GBRA specified in the settlement agreement is an interim measure, as it has an ending date and costs would be rolled into base rates at the next rate case. However, the GBRA mechanism that FPL is requesting the Commission to approve in this docket would have no such limit, as it has no ending date and is intended to cover the costs of all future power plants that receive need determination approval. As acknowledged by FPL witness Barrett, the GBRA mechanism, if approved, would allow FPL to recover such costs without regard to whether earnings were sufficient to cover the addition of a new plant. (TR 5965)

Evaluation of Existing Ratemaking Policy against the Proposed GBRA

Parties are in agreement that rate cases are often costly and administratively burdensome. (FPL Barrett TR 5986) For example, the expenses associated with FPL's rate case in this docket were estimated at \$4 - 5 million during the hearing. (TR 5986) Comparatively, the cumulative total of rate increase that FPL is asking for in this case is approximately \$1.5 billion. (TR 5987) FPL's requested rate increase includes new power plants, transmission and distribution projects, administrative costs, operation and maintenance expenses, etc.

It is undisputed that FPL has built several generating units since 1985 without seeking a rate increase. (TR 185, 2423, 5958) FPL witness Barrett also acknowledged that if economic conditions or other factors changed, it was possible that FPL's base rates could be sufficient to cover the cost of a new generating unit in whole or in part without the application of a GBRA. (TR 5965) Other factors, such as the addition of new customers and increased electricity sales tend to offset the additional costs of new power plants. FPL witness Barrett testified that under certain hypothetical circumstances, with a GBRA mechanism in place, customers' bills could go up as a result of adding new generation, though FPL's earnings would remain unaffected. (TR 5962)

According to FPL, the Commission should approve continuation of GBRA because it is "reasonable, cost-based and sends the appropriate price signals to customers." While the term "cost-based" may accurately describe the GBRA, a rate case proceeding provides more of an opportunity to rigorously review costs and earnings as a whole. Regarding price signals, staff

⁷ Ibid., Attachment A, page 3.

⁸ The jurisdictional revenue requirements \$121,310,000 for Turkey Point 5, \$138,519,000 for West County 1, and \$127,099,000 for West County 2.

⁹ Representing costs of FPL's West County Unit 3, Cape Canaveral, and Riviera Beach projects.

agrees that implementation of the GBRA may link reductions in fuel costs to increases in base rates that may occur as a new plant is put in service. However, a traditional base rate proceeding could also be timed (based on the Company's request) to coincide with the in-service date of a new plant, thus achieving the same result. FPL witness Barrett testified that it is possible for the Company to structure the timing of a rate request associated with a new plant such that both the plant's costs and its fuel savings benefits are received at the same time by the customer. (TR 1420) FPL witness Pimentel stated that "the reason that we're requesting the GBRA, first and foremost, is as we build generation that's been approved by this Commission in need determinations, we're trying to match the customer savings and fuel efficiency with the actual capital that we are putting into the business." (TR 5294) In staff's view, this goal could be achieved within the process of a traditional rate case. (TR 5299) Reducing regulatory lag benefits the utility and can be managed by the utility by the timing of filing rate case petitions.

Another of FPL's arguments for the GBRA mechanism is that it has the potential to avoid the need for a rate case. (TR 5982) It is not possible for the Commission staff or interested parties to examine projected costs at the same level of detail during a need determination proceeding as it would be in a traditional rate case proceeding. Staff observes that a need determination examines costs only in comparison to alternative sources of generation, not a review of the full scope of costs and earnings, as is done in a rate case. FPL witness Barrett acknowledges that the GBRA mechanism would be a limited-scope proceeding focused only on the GBRA and intervenors would not be able to raise other costs issues in such a proceeding. (TR 6006) SFHHA witness Kollen also testified against the GBRA regarding the ability of FPL to impose a base rate increase for new generation and transmission projects without consideration of other revenues and costs. (TR 3177) OPC witness Brown explained that if the GBRA is approved and the economy subsequently recovers, FPL's shareholders may earn greater returns which could be sufficient to cover the cost of new generating units without increasing base rates. (TR 2420) Thus, having a GBRA mechanism in place means FPL would have less incentive to control overall base rates. Witness Brown also points out that under GBRA, FPL would essentially be "imposing a surcharge on customers' bills to cover the costs associated with a single component of its overall costs of providing service," although the Commission will not be evaluating whether FPL's existing base rates are sufficient to cover some or all of the costs. (TR 2421)

The time period required for a traditional rate case proceeding differs from that required for need determination proceedings that the GBRA mechanism would utilize. Rate cases generally take at least eight months to complete and include five months devoted to discovery prior to hearing, in accordance with Section 366.06, F.S. Need determination proceedings are required to be completed within 135 days from the date a petition is filed per Section 403.519 (4), F.S. Witness Barrett stated that the GBRA mechanism protects customers "in the event that we're able to bring in a unit less than the costs that were estimated for that unit and approved through the need process, so there would be an automatic true-up for customers" (TR 1488) However, witness Barrett also acknowledged that a rate case serves as the ultimate true-up, and that a rate case is generally beneficial for regulators and customers. (TR 5983)

Witness Ousdahl agreed with the statement that "One of the benefits of a base rate proceeding from a consumer's perspective is that a base rate proceeding would examine a utility's entire cost of service to determine whether reductions in rate base may offset capital additions." (TR 3731) Witness Ousdahl also acknowledged that as part of a base rate proceeding, the

Commission has the opportunity to examine whether a utility's accumulated depreciation or increases in a utility's billing determinants would result in a decrease in its rate base. (TR 3732)

One criticism that SFHHA witness Kollen had of the GBRA mechanism is that "it provides the Company an almost unfettered ability to automatically impose base rate increases to recover selective increases in certain costs without consideration of increases in revenues and reductions in all other costs." (TR 3109)

Witness Kollen is concerned that the GBRA mechanism that FPL is asking the Commission to approve is not clearly defined. The proposed GBRA differs from the existing GBRA currently in effect. Witness Kollen points out that "the GBRA mechanism is not even a proposed tariff even though it is self-implementing. There is no proposed tariff to review. There is not even a detailed description of the mechanism and the revenue requirement computations in the testimony of any FPL witness." (TR 3115 – 3116) FPL is currently building several new power plants, West County 3, Riviera Beach, and Cape Canaveral. Witness Deaton acknowledged that between 2010 and 2015, FPL will be adding \$3.255 billion in capital costs to rate base for these power plants if the GBRA is approved. (TR 4288-89) This suggests that, in the absence of the GBRA, FPL may file a rate case in 2013 for the next new plant.

It is undisputed that FPL already collects about 61 percent of its total revenues through various "pass-through" mechanisms and cost recovery clauses. (TR 2421) Staff is not convinced that adding another such mechanism, by permanently implementing a GBRA for FPL, will provide advantages over traditional rate case procedures found in Section 366.06, F.S. Staff finds no justification in the record for approving a cost-recovery mechanism for FPL's new generation that is different from what the Commission applies to all other investor-owned electric utilities.

Policy Change Procedure

An additional rationale for not treating FPL differently is that approving a GBRA for FPL on a permanent basis would constitute a change in the Commission's general ratemaking policies. The Commission stated in Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, "Acceptance of a settlement among parties is not the same as establishing a generic policy."¹⁰ FPL witness Ousdahl stated "We are asking the Commission to formalize its policy with regard to GBRA." (TR 3794) Staff believes that approving the GBRA mechanism in the instant docket would constitute a formalization of Commission policy, a precedent staff recommends against making.

FPL suggests that "[T]he GBRA mechanism is an effective way to reflect the costs of new power plant additions in a way that is equitable and efficient from the perspective of Florida ratepayers, the Commission, and any investor-owned utility." (EXH 35, BSP 0000149) There is no record evidence, beyond FPL's suggestion, supporting adoption of a GBRA-like procedure for other utilities. The Commission's approval of the stipulated settlement agreement in 2005 created a separate procedure, the GBRA, applicable only to FPL.¹¹ Staff believes it is better

¹⁰ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company, p. 126.

¹¹ Id.

regulatory policy to expect all regulated utilities to adhere to the same procedures. To single out one utility for special treatment potentially could invite negative perceptions and speculations. The record of the instant case contains no evidence that suggests special treatment of one utility is good policy.

CONCLUSION

Staff recommends that FPL's request to continue the GBRA mechanism be denied. It is not possible for the Commission to exercise an equivalent level of oversight within the context of a GBRA mechanism as compared with the level of scrutiny provided for within a traditional rate case proceeding. Approving a GBRA mechanism for FPL would result in the Commission altering its ratemaking policy for one utility company. A policy change of this magnitude deserves a more thorough vetting through a separate generic proceeding. Furthermore, if the GBRA mechanism is approved for FPL, then Staff would expect other IOUs to file similar requests. FPL did not provide sufficient evidence that they should be treated differently than others.

Issue 9: If the Commission approves a GBRA mechanism for FPL, how should the cost of qualifying generating plant additions be determined? (**Note: If the Commission does not approve a GBRA mechanism for FPL in Issue 8, Issue 9 is moot.**)

Recommendation: Staff recommends that the current method of using the generating plant additions, considered in the Florida Power Plant Siting Act (PPSA), pursuant to which a need determination is granted by the Commission, be continued. (Prestwood)

Position of the Parties

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.

OPC: (Note – OPC opposes FPL's proposed GBRA in its entirety.) The cost of qualifying assets should be based on the most recently available information at the time that the request is made by FPL to adjust its rates, but should be limited to the bid made and accepted in the determination of need proceeding.

AFFIRM: No position.

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

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The appropriate costs of the qualifying generating plant should be determined in a separate proceeding and based on the most current information available.

FRF: Agree with OPC that, if the Commission approves a GBRA over the objections of the Consumer parties, the cost of qualifying plant additions should be based on the most current available data, not on the basis of costs submitted in need determination proceedings years in advance.

SFHHA: Supports OPC's position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl explained that GBRA provides for the recovery of the annualized base revenue requirements for new generating units. This revenue requirement is based on projected amounts reflected in FPL's need determination filings and subsequently adjusted once actual plant costs are known. The Company did not propose any changes to the current GBRA mechanism, but proposed a continuation of its use. (TR 3626)

The Commission-approved stipulation of the Company's 2005 rate case, defined how the costs of qualifying generating plant additions are to be determined:

For any power plant that is approved pursuant to the Florida Power Plant Siting Act (PPSA) and achieves commercial operation . . . the costs of which are not recovered fully through a clause or clauses, FPL's base rates will be increased by the annualized base revenue requirement for the first 12 months of operation, reflecting the costs upon which the cumulative present value revenue requirements (CPVRR) were or are predicated, and pursuant to which a need determination was granted by the FPSC, . . . FPL will calculate and submit for Commission confirmation the amount of the GBRA . . . using the projection filing for the year that the plant is to go into service.¹²

In approving the 2005 rate settlement agreement, the Commission noted that “[t]he parties clarified that in the event the actual capital cost of a generation project subject to Paragraph 17 is lower than the projected cost, the difference will be reflected as a one-time credit through the Capacity Clause.”¹³¹²

Other than FPL, the parties’ testimony in this proceeding generally opposed the continuance of the GBRA mechanism as a whole, and therefore their testimony did not address many of the individual specific recommendations. The issue of how the cost of qualifying generating plant additions should be determined if GBRA were continued in the future, is an example of an issue not specially addressed by the other parties.

SFHHA witness Kollen did object to the use of the first year estimate of the revenue requirement of the new generation and related transmission “when the revenue requirement is at its peak” but did not offer an alternative. (TR 3115)

ANALYSIS

If the Commission approves a continuation of the GBRA mechanism for FPL, the present method of qualifying generating plant additions is reasonable. This method makes use of the existing Florida Power Plant Siting Act (PPSA) to determine the annualized base revenue requirement for the first 12 months of operation. The GBRA would become effective when the

¹² Order No. PSC-05-0902-S-E1, issued September 14, 2005, in Docket No. 050045-E1, In re: Petition for rate increase by Florida Power & Light Company, p. 5, Attachment A, p. 19

¹³ *Id.*

plant achieves commercial operation. FPL would be required to calculate the revenue requirement, reflecting the costs upon which the cumulative present value revenue requirements (CPVRR) were or are predicated. FPL would be required to submit for Commission confirmation the amount of the GBRA, pursuant to which a need determination was granted by the FPSC. In the event the actual cost of a project subject to the GBRA is lower than the projected cost, the difference will be reflected as a one-time credit through the Capacity Clause.

CONCLUSION

If the Commission approves the continuation of a GBRA mechanism for FPL, staff recommends that the current method of qualifying generating plant additions be used. This would tie the determination of the appropriate generating plant additions considered in the existing Florida Power Plant Siting Act (PPSA), pursuant to which a need determination is granted by the FPSC. This has proved to be a workable method of allowing for rate increases associated with power plant additions outside of the full rate case process.

Docket Nos. 080677-EI, 090130-EI
Date: December 23, 2009

Issue 10: Intentionally Blank

Issue 11: If the Commission approves a GBRA mechanism for FPL, how should the GBRA be designed? (**Note: If the Commission does not approve the continuation of a GBRA mechanism for FPL in Issue 8, Issue 11 is moot.**)

Recommendation: Staff recommends the use of the current design, as defined in the Company's 2005 rate settlement agreement, with the exception of the return on equity. FPL's return on equity and adjusted equity ratio should be made consistent with the Commission's decisions in Issues 71 and 80. (Prestwood)

Position of the Parties

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.

OPC: (**Note – OPC opposes FPL's proposed GBRA in its entirety.**) The design should ensure that customers' bills are increased no higher than necessary to support overall rate base and provide a fair return. Affected parties should have a point of entry to be heard on this criterion.

AFFIRM: No position.

AG: Adopt OPC position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: A base rate increase should be considered only when the addition of the plant's revenue requirements to the most recent surveillance report cause the company to earn less than the floor of its last authorized ROE. Minimum filing requirements should be provided as well as a point of entry.

FRF: Any increase pursuant to a GBRA would first have to be tested to determine whether, absent the GBRA adjustment, FPL would earn below its authorized rate of return on equity. The Commission should open a docket and provide a point of entry for substantially affected parties, i.e., FPL's customers, to test the reasonableness of FPL's claimed costs and any rate changes that might result.

SFHHA: The GBRA revenue requirement methodology should be set forth in a formula and in the form of a GBRA tariff. In the formula, the Commission should require the use of a capital structure, cost of debt and return on equity that is consistent with the SFHHA recommendations to adjust these components for base ratemaking purposes. Depreciation expenses also should be adjusted to reflect a 40-year service life for new combined cycle facilities.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl testified that the stipulation in the Company's 2005 rate settlement agreement (2005 FPL Settlement), approved by the Commission, provided for the use of a GBRA for recovery of annualized base revenue requirements for new generating units. (TR 3626)

The 2005 FPL Settlement approved by the Commission in Order No. PSC-05-0902-S-EI, discussed the design of GBRA as follows:

...such adjustment to be reflected on FPL's customer bills by increasing base charges, and nonclause recoverable credits, by an equal percentage. FPL will begin applying the incremental base rate charges required by this Stipulation and Settlement to meter readings made on and after the commercial in service date of any such power plant. Such adjustment shall be referred to as a Generation Base Rate Adjustment (GBRA). The GBRA will be calculated using an 11.75% ROE and the capital structure as per Section 15 above. FPL will calculate and submit for Commission confirmation the amount of the GBRA using the Capacity Clause projection filing for the year that the plant is to go into service. In the event that the actual capital costs of generation projects are lower than were or are projected in the need determination proceeding, the difference will be flowed back via a true-up to the Capacity Clause. In the event that actual capital costs for such power plant are higher than were projected in the need determination proceeding, FPL at its option may initiate a limited proceeding per Section 366.076, Florida Statutes, limited to the issue of whether FPL has met the requirements of Rule 25-22.082(15), Florida Administrative Code. If the Commission finds that FPL has met the requirements of Rule 25-22.082(15), FPL shall increase the GBRA by the corresponding incremental revenue requirement due to such additional capital costs. However, FPL's election not to seek such an increase in the GBRA shall not preclude FPL from booking any incremental costs for surveillance reporting and all regulatory purposes subject only to a finding of imprudence or disallowance by the Commission. Upon termination of the Stipulation and Settlement, FPL's base rate levels, including the effects of any GBRA, shall continue in effect until next reset by the Commission. Any Party to this Stipulation and Settlement may participate in any such limited proceeding for the purpose of challenging whether FPL has met the requirements of Rule 25-22.082(15). [. . .]¹⁴

In approving the 2005 FPL Settlement, the Commission noted that "[t]he parties clarified that in the event the actual capital cost of a generation project subject to Paragraph 17 is lower

¹⁴Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, Attachment A, p. 19.

than the projected cost, the difference will be reflected as a one-time credit through the Capacity Clause.”¹⁵

FPL proposes to use the GBRA mechanism for its West County Unit 3, which is projected to be placed in service during its subsequent 2011 test year. FPL also expects substantial base rate cost impacts from adding new, more efficient generating units beyond 2011. (Ousdahl TR 3626)

SFHHA witness Kollen raised several problems with the Company’s proposed GBRA design as applied to West County Unit 3. He stated that first, the proposed rate of return is overstated due to an excessive common equity ratio of 55.80% and that the capital structure proposed by SFHHA witness Baudino should be used. Second, the proposed rate of return is overstated due to the Company’s use of the so-called “incremental” cost of debt rather than the weighted average cost of debt outstanding. Third, the proposed rate of return is overstated due to the failure to include low cost short term debt in the capital structure. Fourth, the rate of return is overstated because it does not include any cost-free ADIT in the capital structure. Fifth, the depreciation expense is overstated because it is based on a 25 year life for the WCEC 3 facility. Such a facility has a reasonable service life of 40 years and depreciation expense should be based on the reasonable service life, not an accelerated life established only to accelerate and increase near-term ratemaking recovery. (TR 3116-3117)

Finally on the subject of GBRA, witness Kollen testified that:

If the Company believes that it has or will have a revenue deficiency for 2011, then it should file a request to increase its base rates some time in 2010. Similarly, if the Company believes that it has or will have a revenue deficiency in years after 2011, then it should file requests to increase its base rates in those years.

(TR 3116-3117)

OPC witness Brown explained that once the rates are established, the impacts of economic recovery may result in higher returns to FPL’s shareholders-returns. These higher returns may be sufficient to absorb the costs associated with FPL’s new units. She testified:

The GBRA mechanism would allow FPL to avoid having to use those returns to cover the costs associated with the new facilities. Instead, FPL could “pocket” those returns, while simply imposing a surcharge on customers’ bills to cover the costs associated with a single component of its overall costs of providing service. Once the base rates are established, FPL does not have an incentive to reduce base rates.

(TR 2420-2421)

¹⁵ Order No. PSC-05-0902-S-E1, issued September 14, 2005, in Docket No. 050045-E1, In re: Petition for rate increase by Florida Power & Light Company, p. 5.

ANALYSIS

SFHHA witness Kollen's "numerous problems" with the GBRA mechanism design are primarily caused because GBRA is a mechanism that operates outside of the full rate case process. The problems raised by witness Kollen are issues that would have to be addressed in a complete rate case process each time a GBRA is implemented. Witness Kollen does not really address the design of GBRA as if it were continued in the future without having a complete rate case each time a GBRA is implemented.

Similarly, OPC witness Brown's testimony generally opposes the continuance of the GBRA mechanism as a whole and therefore, does not address the design of GBRA if it were continued in the future.

CONCLUSION

Staff believes that if the Commission approves the continuation of GBRA, the present design, as defined in the 2005 FPL Settlement, is a satisfactory process, with the exception of the return on equity. The 2005 FPL Settlement provided that GBRA will be calculated using an 11.75 percent return on equity and an adjusted equity ratio as follows:

... FPL's adjusted equity ratio will be capped at 55.83% as included in FPL's projected 1998 Rate of Return Report for surveillance purposes. The adjusted equity ratio equals common equity divided by the sum of common equity, preferred equity, debt and off-balance sheet obligations. The amount used for off-balance sheet obligations will be calculated per the Standard & Poor's methodology.¹⁶

FPL's Return on Equity and adjusted equity ratio, for use in the GBRA, should be made consistent with the Commission's decisions in Issues 71 and 80.

¹⁶Order No. PSC-05-0902-S-E1, issued September 14, 2005, in Docket No. 050045-E1, In re: Petition for rate increase by Florida Power & Light Company, Attachment A, p. 19.

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? (**Note: If the Commission does not approve the continuation of a GBRA mechanism for FPL in Issue 8, Issue 12 is moot.**)

Recommendation: No. If the Commission approves a GBRA mechanism for FPL, staff recommends that no "earnings test" be put into place to limit the maximum amount of base rate adjustment. (Prestwood)

Position of the Parties

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.

OPC: (**Note – OPC opposes FPL's proposed GBRA in its entirety.**) If the Commission approves a GBRA for FPL, any base rate increase should be considered only when the addition of the prospective plant revenue requirements to the Company's most recent surveillance report will cause the company to earn less than the floor of its last authorized rate of return on equity. The amount of the increase should be limited to that necessary to restore the company to the bottom of the range of its authorized overall rate of return. Also, see OPC's Position on Issue 11.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: FIPUG opposes the establishment of the GBRA. If it is approved, the Commission should limit any recovery to bringing FPL to the low end of its ROE range. This review should be done in a separate proceeding where a point of entry is provided for all parties.

FRF: Agree with OPC that any base rate increases pursuant to a GBRA should only be considered when the Company has made a prima facie showing that, absent rate increases, the Company will earn less than the floor of its authorized rate of return on equity.

SFHHA: Yes. The GBRA should not be used to circumvent the comprehensive review of all revenue and cost components in a base rate proceeding. An earnings test provides a real-time proxy to capture any other revenue increases and cost reductions in the absence of a

Date: December 23, 2009

comprehensive base rate proceeding. Any earnings in excess of the authorized return on equity, as measured by FPL's earnings reported on surveillance reports, should be used to reduce the GBRA.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl explained that the GBRA provides for the recovery of the annualized base revenue requirements for new generating units. This revenue requirement is based on projected amounts reflected in FPL's need determination filings and subsequently adjusted once actual plant costs are known. The Company did not propose any changes to the current GBRA mechanism, but proposed a continuation of its use. (TR 3626)

Other than FPL, the parties' testimony in this proceeding generally opposed the continuance of the GBRA mechanism as a whole and therefore, their testimony did not address modifications such as how to limit the base rate adjustment by a consideration of the impact of the new generating facility on FPL's earned rate of return ("earnings test").

OPC witness Brown testified on the subject of earned rate of return and the GRBRA, stating that

Ratepayers thus bear the risk of unwarranted increases in base rates-unwarranted in the sense that if existing earnings are sufficient to absorb some or all of the costs of the addition, the increase, or a portion of the increase, associated with the application of the GBRA to customers' bills would be higher than necessary to produce a fair return.

(TR 2422)

OPC witness Brown went on to state that the greater concern should be to balance the interests of FPL and its ratepayers by taking into account the earned return at the time. If the GBRA continues, increases will be allowed without having all pertinent and reliable information. (TR 2424)

SFHHA witness Kollen also testified on the subject of earned rate of return and the GRBRA stating that:

. . . the proposed GBRA mechanism constitutes a single issue and one-way base rate increase mechanism that fails to consider cost reductions that the Company may achieve in other areas. For example, the proposed mechanism will not reflect cost reductions due to the continued depreciation on or retirement of existing production plant investment as acknowledged by the Company in response to SFHHA Interrogatory 112. The proposed GBRA mechanism allows the Company to retain the savings resulting from ongoing recoveries of existing plant investment through depreciation from ratepayers, the cost free capital resulting from ongoing accelerated tax depreciation, increases in revenues due to

customer and usage growth and capital expenditure and expense cost reductions.

(TR 3114)

ANALYSIS

A review of the record indicates that no party offered a method of limiting the impact of the GBRA by consideration of FPL's earned rate of return ("earnings test"). When asked why, in FPL's view, it would be appropriate to increase rates through the GBRA mechanism to recover costs associated with placing a new generating plant in service, but not to take into account at the same time adjustments that would have an opposite effect on rates, FPL stated:

Generating plant additions represent a significant capital investment that results in large, lump sum increases to rate base and revenue requirements that often, in and of itself, will result in the need to file for a base rate increase. Other types of utility activities such as accumulated depreciation, increases in billing determinants and/or reductions to other elements of cost of service tend to occur gradually over time and are offset by increases in O&M expense, increases in capital expenditures for capital replacement of existing plants, new service accounts, system reliability, storm hardening with corresponding increase in depreciation expense. **Attempting to address all changes in costs during the GBRA process would effectively turn that process into a full base rate case proceeding.** "emphasis added"

(EXH 292 LK-2, p. 1)

The purpose of the GBRA, which was reached as part of a settlement process, was to allow FPL to increase base rates for any power plant that was approved pursuant to the Florida Power Plant Siting Act (PPSA) and achieved commercial operation within the term of the Stipulation and Settlement. During the term of the Stipulation and Settlement there was to be no full rate case process. In other words, the purpose of the GBRA was to provide FPL a mechanism to obtain a general rate increase outside of a full rate case process during the term of the Company's 2005 rate settlement agreement.¹⁷

CONCLUSION

Staff does not believe it is practical to have a GBRA mechanism with an "earnings test." There should be either a GBRA mechanism for FPL with no "earnings test" or no GBRA mechanism at all. Without a GBRA mechanism, FPL could file for base rate increases through the full rate case process as it deems necessary.

¹⁷ Order No. PSC-05-0902-S-E1, issued September 14, 2005, in Docket No. 050045-E1, In re: Petition for rate increase by Florida Power & Light Company, Attachment A.

Date: December 23, 2009

Issue 13: If the Commission approves a GBRA mechanism for FPL, how should FPL be required to implement the GBRA? (**Note: If the Commission does not approve the continuation of a GBRA mechanism for FPL in Issue 8, Issue 13 is moot.**)

Recommendation: If the Commission approves the continuation of a GBRA mechanism for FPL, staff recommends that the current method of implementing the GBRA through the Capacity Clause projection filing for the year that the plant is to go into service should be continued. (Prestwood)

Position of the Parties

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.

OPC: See OPC's position on Issue 11.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: See Issues 11 and 12.

FRF: Any increase pursuant to a GBRA would first have to be tested to determine whether, absent the GBRA adjustment, FPL would earn below its authorized rate of return on equity. The Commission should open a docket and provide a point of entry for substantially affected parties, i.e., FPL's customers, to test the reasonableness of FPL's claimed costs and any rate changes that might result.

SFHHA: See response to Issue 12.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl testified that the stipulation to the Company's 2005 rate settlement agreement, approved by the Commission, provided for the use of a GBRA for recovery of annualized base revenue requirements for new generating units. (TR 3626)

ANALYSIS

The stipulation in the Company's 2005 rate settlement agreement, approved by the Commission in Order No. PSC-05-0902-S-EI, discussed the implementation of GBRA as follows:

FPL will begin applying the incremental base rate charges required by this Stipulation and Settlement to meter readings made on and after the commercial in service date of any such power plant. Such adjustment shall be referred to as a Generation Base Rate Adjustment (GBRA). [. . .] FPL will calculate and submit for Commission confirmation the amount of the GBRA using the Capacity Clause projection filing for the year that the plant is to go into service. In the event that the actual capital costs of generation projects are lower than were or are projected in the need determination proceeding, the difference will be flowed back via a true-up to the Capacity Clause.¹⁸

In approving the 2005 rate settlement agreement, the Commission noted that, "[t]he parties clarified that in the event the actual capital cost of a generation project subject to Paragraph 17 is lower than the projected cost, the difference will be reflected as a one-time credit through the Capacity Clause."¹⁹

Other than FPL, the parties' testimony in this proceeding generally opposed the continuance of the GBRA mechanism as a whole and therefore, their testimony did not address modifications such as how FPL should be required to implement the GBRA.

CONCLUSION

If the Commission approves the continuation of a GBRA mechanism for FPL, staff recommends that the current method of implementing GBRA should be continued. This would tie GBRA to the existing Florida Power Plant Siting Act (PPSA), pursuant to which a need determination is granted by the Commission. This has proved to be a workable method of allowing for rate increases associated with power plant additions outside of the full rate case process. This would require FPL to calculate and submit for Commission confirmation the amount of the GBRA using the Capacity Clause projection filing for the year that the plant is to go into service. In the event that the actual capital costs of generation projects are lower than in the need determination proceeding, the difference would be flowed back via a true-up to the Capacity Clause.

¹⁸ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, Attachment A, p. 19.

¹⁹ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, p. 5.

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?

Recommendation: If the GBRA is not approved, Plant in Service and Accumulated Depreciation should be increased by \$456,830,000 and \$8,229,000 respectively for the 2011 test year. Also, Other Expenses, and Depreciation Expense should be increased by \$5,129,000 and \$26,749,000 respectively, for the 2011 test year. (Prestwood)

Position of the Parties

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.

OPC: The Commission should add back the adjustments made by FPL to remove WCEC3 from the 2011 revenue requirement Plant in service should be increased by \$465.616 million, depreciation expense should be increased by \$26.815 million (\$19.623 million with J. Pous adjustment), accumulated depreciation should be increased by \$8.250 million (\$6.540 million with J. Pous adjustment), and production O&M expenses should be increased by \$5.229 million.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: For the reasons stated in Issues 4-11, the Commission should not approve a subsequent year adjustment. Thus, the costs for WCEC3 should not be considered at this time.

FRF: If the Commission does not approve the continuation of the GBRA, but does approve a subsequent year adjustment for FPL in this case, which the FRF strongly opposes for the reasons set forth above, then the revenue requirement impact of West County Unit 3 should be added into the 2011 adjusted test year.

SFHHA: FPL's proposed capital structure, cost of debt and return on equity should be adjusted, consistent with the SFHHA recommendations to adjust these components for base ratemaking purposes. Depreciation expenses also should be adjusted to reflect a more reasonable service life for new generation facilities than proposed by FPL.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl explained that because FPL is requesting the continued use of a GBRA mechanism for recovery of costs and expenses related to West County Unit 3 being placed into service on June 1, 2011 all amounts associated with West County Unit 3 were removed from its 2011 revenue requirements. (TR 3625)

OPC witness Brown testified that:

. . . although I am recommending that FPL's use of the 2011 Test Year to determine a subsequent year adjustment be denied by the Commission, I have addressed the 2011 Test Year revenue requirements throughout the remainder of my testimony. When calculating the overall revenue requirements for 2011, I have added back the WCEC3 costs.

(TR 2425)

SFHHA witness Kollen recommended that the Commission deny both GBRA and the 2011 subsequent test year adjustment. Concerning the costs of FPL's West County Unit 3 in 2011, witness Kollen testified that "[i]f the Company believes that it has or will have a revenue deficiency for 2011, then it should file a request to increase its base rates some time in 2010.(TR 3118)

ANALYSIS

MFR Schedule B-2, for the projected subsequent test year 2011, shows the adjustments to Plant in Service and Accumulated Depreciation that FPL made to remove the cost associated with West County Unit 3. These adjustments were based on the assumption that the continuation of the GBRA would be approved. If GBRA is not approved, Plant in Service and Accumulated Depreciation should be increased by \$456,830,000 and \$8,229,000 respectively, for 2011 on a jurisdictional basis.

MFR Schedule C-2, for the projected subsequent test year 2011, shows adjustments to Net Operating Income that FPL made to remove the cost associated with West County Unit 3. Again, these adjustments were based on the assumption that the continuation of the GBRA would be approved. If GBRA is not approved, Other Expenses, and Depreciation Expense should be increased by \$5,129,000 and \$26,749,000 respectively, for 2011 on a jurisdictional basis.

CONCLUSION

If the Commission chooses not to approve the continuation of the GBRA mechanism, but approves the use of the subsequent year adjustment, the amounts eliminated by FPL in MFR Schedules B-2 and C-2 should be added back to the 2011 test year results. This requires that Plant in Service and Accumulated Depreciation be increased by \$456,830,000 and \$8,229,000 respectively, for 2011 on a jurisdictional basis. Also, Other Expenses, and Depreciation Expense

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

should be increased by \$5,129,000 and \$26,749,000 respectively, for 2011 on a jurisdictional basis.

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?

Recommendation: No, all costs and revenue associated with long-term firm non-jurisdictional transmission service contracts should be separated. The Commission should make the following jurisdictional adjustments for 2010: reduce plant in service by \$386,896,000; reduce accumulated depreciation by \$144,299,000; reduce plant held for future use by \$4,200,000; reduce construction work in progress by \$18,623,000; increase working capital by \$3,700,000; decrease operating revenues by \$33,639,000; decrease O&M expenses by \$10,462,000; decrease depreciation and amortization by \$10,352,000; decrease taxes other than income by \$4,918,000 and increase amortization of regulatory asset by \$17,000.

The Commission also should make the following jurisdictional adjustments for 2011: reduce plant in service by \$410,264,000; reduce accumulated depreciation by \$154,424,000; reduce plant held for future use by \$3,934,000; reduce construction work in progress by \$30,829,000; increase working capital by \$3,809,000; decrease operating revenues by \$34,658,000; decrease O&M expenses by \$10,061,000; decrease depreciation and amortization by \$11,278,000; decrease taxes other than income by \$5,411,000 and decrease amortization of regulatory asset by \$96,000. (Laux)

Position of the Parties

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.

OPC: No. FPL's MFRs understated the revenue impact of allocating transmission service revenue which created a significant subsidy charged to the retail jurisdictional customers. FPL agrees with OPC's adjustment. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amounts are as follows:

Jurisdictional	2010	2011
Rate Base	(\$261,720,000)	(\$286,794,000)
NOI	(\$6,867,000)	(\$7,161,000)
Revenue Requirement	(\$22,975,000)	(\$26,615,000)

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: No. The FRF agrees with OPC that FPL's jurisdictional separation methodology would force FPL's retail customers to cross-subsidize wholesale customers, and that FPL's jurisdictional cost study should be modified as recommended by Witness Sheree L. Brown.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL, OPC, AG, FIPUG and FRF took positions on this issue; however, the AG, FIPUG and FRF position is to support or agree with OPC's position.

FPL witness Ender testified that the Company's 2010 and 2011 transmission service revenues were allocated as credits to offset retail jurisdictional revenues consistent with the Commission's Order in FPL's last fully litigated rate case (Docket No. 830465-EI). (TR 4089) FPL witness Ender did note that, historically, the Commission require utilities to separate (not credit back) any costs and revenues associated with firm wholesale transmission sales that last over one year in duration. (TR 4053-4054)

OPC witness Brown testified that FPL created a revenue credit methodology that charged the retail jurisdiction with all costs of transmission, and provided an offsetting revenue credit for transmission revenues received from non-retail jurisdictional customers. OPC witness Brown stated that while this approach may be appropriate for non-firm or short-term transmission services, revenue crediting for long term contracts may create a subsidy for long-term firm transmission service customers. (TR 2426) OPC witness Brown stated that to remove the effect of this revenue credit method, FPL would need to reduce its requested jurisdictional revenue requirements by \$18.5 million in 2010 and \$19 million in 2011. (TR 2427)

In his rebuttal testimony, FPL witness Ender stated that the company does not oppose OPC's method of addressing transmission related costs and revenues for long-term firm non-jurisdictional transmission service contracts. However, FPL witness Ender stated that the actual revenue amount that should be separated is approximately \$23.0 million and \$26.6 million for 2010 and 2011, respectively. (TR 4090)

In its brief, OPC agreed with the adjusted amount as presented in witness Ender's exhibit JAE-11. (EXH 378)

ANALYSIS

Staff reviewed the testimony on this item and agrees with the basic position as presented by OPC. Separating all revenues and costs associated with forecasted long-term firm non-jurisdictional transmission service contracts ensures that jurisdictional customers will not

subsidize non-jurisdictional transactions. Staff believes that the information concerning the costs and revenues associated with these sales is more accurately presented, based on forecasted transactions for 2010 and 2011, in witness Ender's exhibit JAE-11.

CONCLUSION

Staff recommends that all costs and revenues associated with long-term firm non-jurisdictional transmission service contracts should be separated. The Commission should make the following jurisdictional adjustments to remove the effects of the revenue crediting method employed by FPL:

For 2010: reduce plant in service by \$386,896,000; reduce accumulated depreciation by \$144,299,000; reduce plant held for future use by \$4,200,000; reduce construction work in progress by \$18,623,000; increase working capital by \$3,700,000; decrease operating revenues by \$33,639,000; decrease O&M expenses by \$10,462,000; decrease depreciation and amortization by \$10,352,000; decrease taxes other than income by \$4,918,000 and increase amortization of regulatory asset by \$17,000.

For 2011: reduce plant in service by \$410,264,000; reduce accumulated depreciation by \$154,424,000; reduce plant held for future use by \$3,934,000; reduce construction work in progress by \$30,829,000; increase working capital by \$3,809,000; decrease operating revenues by \$34,658,000; decrease O&M expenses by \$10,061,000; decrease depreciation and amortization by \$11,278,000; decrease taxes other than income by \$5,411,000 and decrease amortization of regulatory asset by \$96,000.

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

Recommendation: Staff recommends that, with the exception noted in issue 15, FPL appropriately separated costs and revenues between the wholesale and retail jurisdictions. (Laux)

Position of the Parties

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 filings and surveillance reports.

OPC: See Issue 15.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: The appropriate jurisdictional separation of costs and revenues are as recommended by Witness Sheree L. Brown. Corresponding adjustments should be made to all accounts that are impacted by Witness Brown's recommended changes in the jurisdictional cost study.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL, OPC, AG, FIPUG and FRF took positions on this issue; however, the AG, FIPUG and FRF position is to support or agree with OPC's position.

As presented in issue 15, OPC witness Brown testified that FPL should have separated all cost and revenues associated with long-term firm non-jurisdictional transmission service contracts. (TR 2427) OPC witness Brown did not address any other factors FPL applied in the jurisdictional cost study.

FPL witness Ender testified that the factors used in the Company's 2010 and 2011 jurisdictional cost studies were consistent with the Commission's Order in FPL's last fully

litigated rate case (Docket No. 830465-EI). (TR 4089) However, FPL witness Ender stated that the Company was not opposed to applying the method recommended by OPC witness Brown for costs and revenues related to long-term firm non-jurisdictional transmission service contracts. (TR 4089)

ANALYSIS

Staff reviewed the methodology used by FPL in the jurisdictional cost study and, with the exception addressed in issue 15, found it to be appropriately applied.

CONCLUSION

Staff recommends that, with the exception noted in issue 15, FPL appropriately separated costs and revenues between the wholesale and retail jurisdictions.

QUALITY OF SERVICE

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

Recommendation: Yes. The quality and reliability of the electric service provided by FPL is adequate as determined by the analysis of customer complaints, an analysis of the distribution system metrics that included the System Average Interruption Duration Index (SAIDI), the System Average Interruption Frequency Index (SAIFI), the Customer Average Interruption Duration Index (CAIDI), and the analysis of the metrics for the transmission system – System Average Restoration Index (SARI) and SAIDI. Vegetation related outages and momentary power interruptions caused by vegetation do appear to be increasing and staff will continue to monitor. (Vickery, C. Lewis, Moses)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: The testimony at the service hearings indicates that service varies in different parts of FPL's territory. Some customers testified about problems with continuing service interruptions and ongoing problems with tree-trimming issues. While FPL testified about its awards for service, the customers who testified did not have the same view. These persons drove distances and waited for lengthy [*sic*] periods of time in order to let this Commission know about their problems and to seek help. Customers shouldn't have to go to these lengths in order to get help from their utility. While it may take more effort for the utility to provide reliable service in the poorer, older and remote areas of their territory, these customers, who have probably been paying for that service longer, deserve the same quality of service as customers in the newer, more affluent areas. We would ask that the Commission require FPL to implement efforts to provide more reliable [*sic*] service in those areas with less reliable service.

AIF: Yes. AIF supports FPL's position that its quality and reliability of electric service are better than adequate.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with Attorney General McCollum.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Only FPL, AIF, AG, and FRF took positions on this issue.

FPL witness Olivera testified that FPL had achieved superior performance in key areas which ultimately benefits FPL's customers. He pointed to the "ServiceOne Award" for customer service performance and to the Company's transmission and distribution reliability. (TR 181-182; TR 214) In reference to FPL's distribution system reliability, witness Olivera stated that the System Average Interruption Index (SAIDI) was the best among Florida's major investor owned utilities for four out of the last six years. (TR 216) Witness Olivera also testified that the transmission system reliability was in the top 25 percent of a recent bench marking study and that FPL was "Best-in-Class" for Average Duration of Sustained Outages as of 2007. (TR 216-217; Sonnelitter TR 2377)

FPL witness Spoor asserted that the reliability metric known as SAIDI for FPL's distribution system is the best overall reliability indicator since it encompasses two other indices for distribution reliability; SAIFI (System Average Interruption Frequency Index) and CAIDI (Customer Average Interruption Duration Index). (TR 2190) In EXH 96, he presented a ten year period (1999 – 2008) that illustrated the average duration for an outage on FPL's distribution system ranging from a high in 1999 of 75.2 minutes to the lowest value in 2008 of 67.2 minutes. Witness Spoor also provided a plot of distribution SAIDI from the Edison Electric Institute (EEI). (EXH 96) The EEI is an association of U.S. Shareholder-Owned Electric Companies representing approximately 70 percent of the U.S. electric power industry. He testified that FPL's distribution SAIDI over the last decade ranks among the best of the industry leaders and was on average approximately 45 percent better than the industry. (TR 2190-2191; TR 2214; FPL BR 6)

FPL witness Reed corroborated the distribution system metrics by analyzing five years of SAIFI, CAIDI, and SAIDI data. He testified that FPL's SAIFI has consistently performed in the top half of the industry in each year since 2003. Regarding the metric CAIDI, he stated that it has been in the top ten among industry peers over the last five years and that the SAIDI metric was in the top quartile in each year over the last five years. Witness Reed testified "[t]hese metrics indicate that FPL is providing above average service in terms of reliability." (TR 6585)

Witness Sonnelitter testified that in a recent benchmarking study concerning transmission reliability, FPL's composite availability (bulk power system availability) score was in the top 25 percent among the participants. (TR 2375, FPL BR 6) The witness also stated the System Average Restoration Index (SARI) placed FPL in the top 10 percent, and that the Company was "best in class" for 2007. (EXH 98, TR 2377) However, witness Sonnelitter stated that the

transmission SAIDI for 2008 was significantly higher (longer duration) than in previous years as a result of the outage that occurred on February 26, 2008.²⁰ (TR 2378)

In reference to FPL's vegetation management program, witness Sonnelitter asserted the transmission system reliability was improved by reducing the number of vegetation related outages by over 88 percent over the last 11 years. (TR 2381) She attributed FPL's success in the transmission vegetation management program to the increased frequency of patrol and inspection followed by remediation of the results. (TR 2382)

FPL witness Santos asserted that FPL is an industry leader in customer service performance and referenced three different "prestigious" awards: the ServiceOne Award by the PA Consulting Group was consecutively awarded five times, the PA Consulting Balanced Scorecard Achievement was awarded in 2008, and the Chartwell Best Practices was awarded in 2006.

The ServiceOne Award objectively measures 24 areas of customer care. The objective measurements were developed by industry experts and include meter reading, billing call center, field service, credit and collections, theft protection, and self service. The PA Consulting Balanced Scorecard award is for excelling in a specific functional area of the Company's customer care center and the Chartwell Best Practices award was for fostering relationships with mid-sized businesses. (TR 1519, TR 1570) In 2008, FPL also launched an Internet-based web portal to quickly and accurately access information needed to help qualify FPL customers for assistance. The FPL web portal "ASSIST" was recognized as runner-up in Chartwell's Best Practices Award in 2008. (TR 1538)

AIF argued in its brief that the Commission should rule that FPL's quality and reliability are second to none. AIF pointed to the testimony of FPL witness Santos concerning the PA Consulting Group ServiceOne Award and the recognition by Chartwell for best practices in 2006. (AIF BR 13) Also, AIF used FPL witness Reed's testimony concerning FPL being ranked higher in all nationally recognized performance evaluations as corroboration that FPL's quality and reliability are second to none. (AIF BR 13)

AG contended in its brief that the "record demonstrates that FPL is operating well beyond the level required to provide reliable electrical service." (AG BR 2) However, the AG argued that the service hearings held within FPL's service territory indicated that FPL's service varies in different parts. AG cited customer testimony from the service hearings concerning repeated service interruptions and ongoing problems with tree-trimming issues. (AG BR 7)

FRF argued that FPL provided its own survey to indicate that FPL was in the top tier for service and that the J.D. Power Associates survey for 2009 shows that FPL's customer satisfaction index ranking was actually below the average for its comparison group of large utilities in the South Region. (FRF BR 15, EXH 394) FRF also argued that the testimony of FPL employees at the service hearings in Fort Myers and Melbourne was not rebutted and indicted that training was being sacrificed and that the work force was aging with no plan for replacement. This has led to a dependence upon foreign contractors. (FRF BR 15-16)

²⁰ On Feb. 26, 2008, FPL's transmission system – the high-voltage power lines that carry electricity from power plants to substations – experienced a service interruption as a result of human error that affected 584,000 customers.

ANALYSIS

FPL provides electric service to about 4.4 million customers. (EXH 35 Item 4 ROG 60) FPL's service territory covers 28,000 square miles, uses 67,000 miles of electrical conductor consisting of 42,000 miles of overhead wires and about 25,000 miles of underground cable, 1.1 million poles, and approximately 800,000 transformers. The Distribution Business unit is divided into five regions (North, East, West, Broward, and Miami-Dade) which are further divided into seventeen management areas with 35 service centers. (TR 2185)

The quality and reliability of the electric service provided by a utility is objectively measured through the use of electric industry reliability indices and the number and types of customer complaints. The Commission has established specific reporting requirements and reliability indices utilized in analysis of an electric utility's distribution system (found within Rule 25-6.0455, F.A.C.). The reliability indices track the duration and frequency of power interruptions and are typically examined at a system level. SAIDI, SAIFI, and CAIDI are the most common indices and are measures of unreliability such that as the indices increase, reliability becomes increasingly worse. All of the indices provide information about average system performance over a specific time period. Accordingly, it is best to examine the current results of a single utility and make a determination as to whether the trend of the current and past results are improving or worsening. However, using averages as the sole basis for decision making can mask the interruption for a specific customer. Therefore, it is important to recognize that an individual customer's outage experience will be averaged within the system indices and that customer complaints relating to the utility's service quality must also be analyzed.

Service Hearings and Complaints

The Commission conducted nine service hearings in FPL's service territory that began on June 19, 2009, and concluded on June 26, 2009. The service hearings took place in Sarasota, Fort Myers, Daytona Beach, Melbourne, West Palm Beach, Fort Lauderdale, Miami, Miami Gardens, and Plantation. A total of 418 customers testified at the service hearings covering topics that ranged from billing issues, deposit requirements, support of FPL, lack of support for the rate base adjustment, and service quality issues. Service quality issues were reported by 55 customers or approximately 13 percent of the customers at the service hearings. (EXH 35 Item 81 BSP 8613-8670)

During cross examination on FPL's Service Hearing Report, FPL witness Santos explained that the complaints concerning outages and service reliability are handled by the distribution business unit and that the service reliability issues were addressed by that unit. (TR 1616) Staff reviewed FPL's Service Hearing Report concerning service reliability and noted that the momentary power interruptions (MPIs) experienced by many of FPL's customers involved vegetation or lightning strikes. In order to resolve the MPIs that did not involve lightning strikes, FPL reported that the Vegetation Management Department was either scheduled to perform trimming or was in the process of correcting problems that were identified following vegetation surveys concerning the customer complaint. (EXH 35 Item 81 BSP 8513-8670) FPL witness Spoor testified that the outages caused by vegetation appeared to be trending upward for the years 2006 through 2008 and that the years 2004 and 2005 experienced natural pruning caused by the hurricanes. (TR 2261-2262) Staff agrees with the AG that MPIs and outages related to vegetation appear to be increasing. (AG BR 7)

Regarding customer complaints, staff witness Hicks testified that 14,700 complaints were logged against FPL for a two year period that began on July 1, 2007 and ended on June 30, 2009. Of the logged complaints, 12,236 were direct transferred to FPL utilizing the Commission's Transfer-Connect program. (TR 2363) The most common FPL complaints were billing issues which accounted for 71 percent of the complaints during the two year period and 29 percent involved quality of service issues. (TR 2363) FPL witness Santos rebutted staff witness Hicks and stated that the data shows on an annual basis only 0.16% of FPL customers contacted the Commission which demonstrates that FPL has a very low rate of complaints and that FPL compares favorably to the other Florida investor owned utilities. (TR 6048)

FPL witness Olivera was cross examined on the J.D. Power's 2009 residential customer satisfaction study for the South Region Large Segment and he agreed that the J.D. Power 2009 residential customer satisfaction study shows FPL slightly below average. In explaining, witness Olivera stated that the J.D. Power study examines a "... whole bunch of dimensions" not just reliability. (TR 588-589) Witness Olivera also stated the average for the East Region Large Segment is 593 whereas FPL is 632 which is above the Southeast Region Large Segment. (TR 589) Staff agrees with FPL, in principle, that determining electric reliability should not be based on a single dimension; however, the service reliability complaints plotted in the Review of Florida's Investor Owned Utilities' Service Reliability in 2007 indicated in Figure 4.9 that the reliability related complaints reported to the Commission for FPL have been trending slightly upward since 1999. (EXH 35 Item 70, BSP 7845-7861) Service reliability complaints included service interruptions, quality of service, repair, safety, and trees. (EXH 35 Item 70, BSP 7845-7861) The observation that customer service reliability complaints reported to the Commission are trending upward lends support to the AG's argument that the service hearings held within the FPL service territory indicated that FPL's service varies in different parts. However, staff disagrees with the AG that FPL is "... operating well beyond the level required to provide reliable electrical service." (AG BR 2) Consequently, staff believes the electrical service reliability would more appropriately be characterized as adequate.

Reliability Indices

None of the parties disputed FPL witness Sonnelitter's testimony concerning FPL's transmission reliability that indicated FPL was in the top 10 percent of the utilities surveyed in a recent bench marking study. (TR 2377) FPL's transmission SAIDI indicted that when an outage occurred on the transmission system it lasted for less than one minute or 0.5 minutes, whereas for the Southeast Region of the US, transmission SAIDI lasted for 5.8 minutes. (EXH 98)

Rule 25-6.0455, F.A.C., Annual Distribution Service Reliability Report requires each electric investor owned utility to file with the Commission an Annual Distribution Reliability Report. The report contains among other things a number of mathematical calculations relating to the duration and frequency of outages that occur on a utility's distribution system on an actual and adjusted basis. The Commission allows certain adjustments to the data provided by the investor owned utility. FPL witnesses Spoor and Reed testified that FPL's three indices (SAIDI, SAIFI, and CAIDI) indicated that FPL was providing better than average numbers for the distribution system.

FPL's distribution system SAIDI is graphically represented in Figure 1 below and indicates for the years 2004 and 2005 an interruption lasted for 70 minutes and in 2006 an

interruption lasted an average of 74 minutes. SAIDI declined in 2007 and sharply declined in 2008 to 67 minutes. (Graphs derived from EXH 35 Item 4 BSP 82-142 and EXH 35 Item 70 BSP 7845-7861)

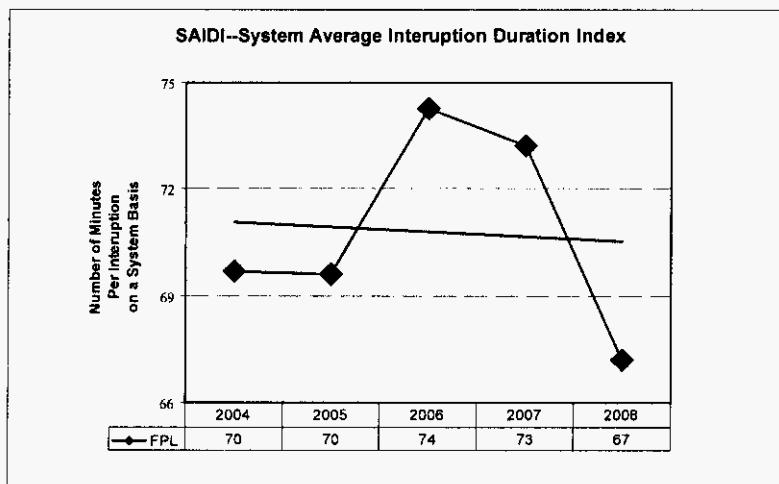


Figure 1. SAIDI

FPL's distribution system analysis also includes the frequency or number of times an interruption occurred on the distribution system. Figure 2 indicates that FPL customers experienced 1.2 outages in 2004, and in 2008 the number of outages declined to 1.07 outages. This metric is used in conjunction with SAIDI.

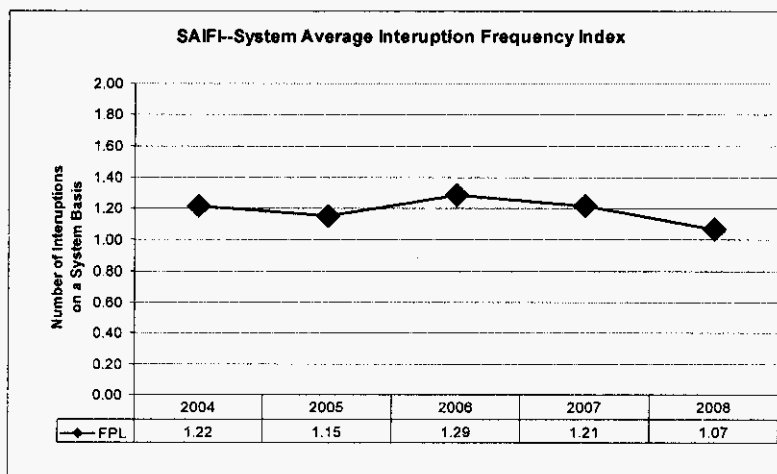


Figure 2. SAIFI

The remaining metric or index is CAIDI, and it represents the length of time, in minutes, that an FPL customer can expect a distribution system outage or interruption to last. Figure 3 indicates that CAIDI had a low of 57 minutes in 2004 and increased to 63 minutes in 2008.

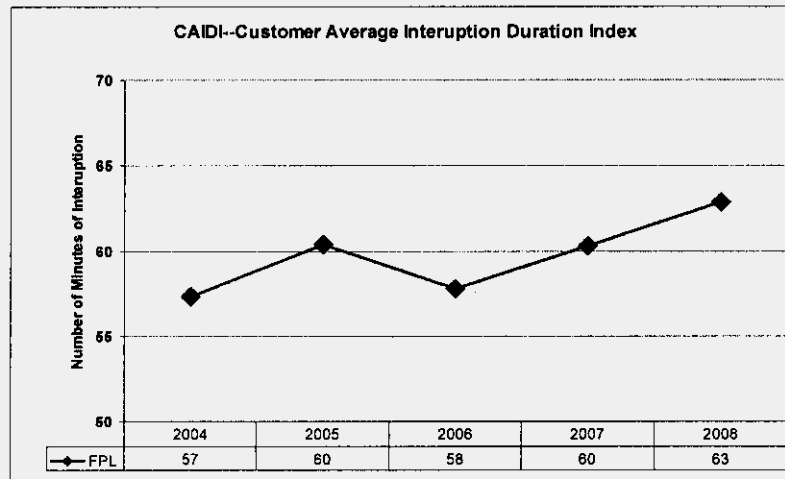


Figure 3. CAIDI

Staff agrees with FPL that the SAIDI index includes the other indices of SAIFI and CAIDI. SAIDI for FPL's entire distribution system is trending downward. This is a good indication that the length of time a customer experiences an outage is decreasing and in 2008 SAIDI had decreased to 67 minutes.

CONCLUSION

The quality and reliability of the electric service provided by FPL appears to be adequate as determined by the analysis of customer complaints, the analysis of the distribution system metrics that included SAIDI, SAIFI, CAIDI and the analysis of the metrics for the transmission system – System Average Restoration Index (SARI) and SAIDI. Vegetation related outages and momentary power interruptions caused by vegetation do appear to be increasing and staff will continue to monitor.

DEPRECIATION STUDY

Issue 18: Intentionally Blank

Issue 19: Intentionally Blank

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

Recommendation: Staff recommends approval of the capital recovery schedules contained in Table 19A-1. Staff also recommends that a portion of existing reserve surplus discussed in Issues 19E and 19F be used to offset the recovery schedule expenses. (P. Lee)

Position of the Parties

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

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).

OPC: The appropriate recovery schedules should be revised consistent with the recommendations of OPC witness Jacob Pous, outlined in the following issues. Among other things, as discussed in detail under Issue 19F the proposed four year schedule to recover \$314 million associated with retirements at Cape Canaveral, Riviera and with meter changeouts should be denied, and the related deficiencies eliminated by transferring and applying a portion of FPL's huge depreciation reserve surplus.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL's position. The appropriate depreciation rates, capital recovery schedules and amortization schedules to be used in this case are those filed with the Commission by FPL on March 17, 2009.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: See response to 19C.

Staff Analysis:

PARTIES' ARGUMENTS

This issue addresses FPL's proposed capital recovery schedules for certain assets anticipated to be retired in the 2010-2013 period. FPL proposed a four-year amortization period for the unrecovered net investments associated with the planned retirement of the Cape Canaveral and Riviera power plants, the St. Lucie and Turkey Point nuclear uprate projects, and the AMI meter project. (EXH 115, pp. 55-57)

FPL

FPL argued in its brief that the use of capital recovery schedules for assets that will not be recovered at the time of retirement is consistent with Commission practice and rules. (TR 6415; FPL BR 68) FPL explained that the Cape Canaveral and Riviera units are scheduled for shutdown for modernization in 2010 and 2011, respectively, and are scheduled to be back in service as combined cycle units in 2013 and 2014, respectively. The nuclear uprate retirements and related removal costs are scheduled for the 2010-2012 period, and the Advanced Metering Infrastructure (AMI)-related retirements and removal costs are anticipated to occur over the 2010-2013 period. FPL stated that a 4-year capital recovery period would result in the recovery of these unrecovered costs before new depreciation rates are established. (EXH 35, Item No. 37, No. 20)

FPL noted in its brief that Rule 25-6.0436(10)(a), F.A.C., states:

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.

FPL argued that no intervenor presented evidence demonstrating that (1) the repowering projects, the nuclear plant uprate projects, or the AMI project were imprudent, or (2) the associated investments would be recovered by the time of retirement. (FPL BR 68)

FPL argued that no compelling evidence was provided by the intervenors to support ignoring Rule 25-6.0436(10)(a), F.A.C., in favor of another approach. However, if the Commission were to decide that some immediate action needed to be taken with FPL's reserve surplus, the OPC and FIPUG proposals to apply a portion of the reserve surplus to offset the unrecovered near-term retirements would be acceptable to FPL. (FPL BR 69) This would reduce FPL's calculated reserve surplus by \$314 million and reduce revenue requirements by about \$58.6 million in 2010 and \$50.6 million in 2011. (FPL BR 69)

FPL argued in its brief that SFHHA's recommended alternatives to its proposed capital recovery schedules are inappropriate and violate both Generally Accepted Accounting Principles (GAAP) and the Federal Energy Regulatory Commission's (FERC) Uniform System of Accounts (USOA). (FPL BR 69)

OPC

OPC argued in its brief that FPL's proposed capital recovery schedules are contrary to its proposed recovery of the reserve surplus over the remaining life. (OPC BR 63) Considering the \$410 million calculated reserve surplus existing in the steam production accounts, \$377.5 million reserve surplus existing in the nuclear production accounts, and \$101 million reserve surplus existing in the distribution accounts, OPC proposed that the unrecovered costs associated with FPL's capital recovery schedules be offset by a portion of the existing surplus discussed in Issue 19F. (TR 1836)

AIF

AIF did not address FPL's proposed capital recovery schedules in testimony. However, in its brief, AIF supported FPL's proposal. (AIF BR 13-14)

FIPUG

In its brief, FIPUG supported OPC's position with respect to capital recovery schedules. (FIPUG BR 17) FIPUG witness Pollock characterized FPL's proposed capital recovery schedules as "accelerated" amortization. (TR 2941) FIPUG argued that FPL's proposal should be rejected. (FIPUG BR 23) FIPUG witness Pollock asserted that because FPL has an existing \$1.245 billion reserve surplus, ratepayers should not have to pay for capital investments the Company has chosen to retire early. (TR 2950)

FRF

FRF did not address FPL's proposed capital recovery schedules in testimony. However, in its brief, FRF supported OPC's proposal. (FRF BR 36)

SFHHA

In its brief, SFHHA argued that FPL proposed arbitrarily short amortization periods that bear no relation to the service life of the underlying assets. (SFHHA BR 8) SFHHA argued that FPL's proposed four-year amortization period has no relation to the estimated service lives of the underlying assets after modernization of the generating units or the expected service lives of existing meters. (SFHHA BR 34)

SFHHA witness Kollen testified that FPL should be directed to cease depreciation on the Cape Canaveral and Riviera steam plants, add the remaining net book value to the costs of the modernization, and depreciate the cost of the combined cycle units along with the unrecovered investments associated with the retiring assets over the estimated service lives of the new combined cycle facilities. (TR 3157) For the nuclear uprate unrecovered costs, witness Kollen proposed that the costs be depreciated over the remaining extended license life of the nuclear units. (TR 3159) In its brief, SFHHA argued that FPL did not dispute that the uprate costs are capital costs incurred to substantially improve and increase the output of the nuclear facilities over their extended lives. For this reason, SFHHA argued that these costs should be considered interim retirements and recovered over the remaining lives of the assets that gave rise to the retirements. (SFHHA BR 34-35; EXH 35)

With respect to FPL's planned meter retirements, SFHHA witness Kollen testified that the net unrecovered costs associated with non-AMI meter investments should be depreciated at the same rate as the existing meter investments. (TR 3159) Because FPL's revenue requirement includes the costs of advanced meters, witness Kollen asserted that there is no need to "accelerate" the depreciation of the old non-AMI meter investments. (TR 3159) SFHHA argued that the AMI deployment is the cause for the premature retirements of the existing non-AMI meters. Therefore, the related unrecovered costs should be reclassified as a regulatory asset and amortized over the lives reflected in existing depreciation rates for meters. (SFHHA BR 35) Witness Kollen asserted that FPL's proposal would require ratepayers to simultaneously pay for

existing non-AMI meter investment and the new meter investment. Because the non-AMI meters will be replaced at one time over a four-year period, witness Kollen concluded that FPL's proposal would "double-up" recovery for meters over the next four years. (TR 3159)

SFHHA contended that FPL's assertion that SFHHA's recommendation does not comport with GAAP and the FERC USOA is incorrect. SFHHA argued that once the modernization is complete, FPL would recover both the modernization costs and the accumulated depreciation related to the retired assets over the expected service lives of the new facilities. (SFHHA BR 35-36) SFHHA contended that this comports with the FERC USOA's requirement that the book cost less net salvage of retired plant should be charged to the depreciation reserve. (SFHHA BR 36) Moreover, SFHHA argued that under group depreciation, the average life of the actual and projected interim retirements are essentially averaged over the remaining average life of the underlying assets included in the plant account. (EXH 35; SFHHA BR 36) In the absence of extraordinary retirements, SFHHA argued that the FERC USOA requires that retirements be debited to the reserve and credited to plant in service. (SFHHA BR 36)

Finally, SFHHA argued that FPL's proposed four-year amortization period for the capital recovery schedules does not merit support. (SFHHA BR 36) SFHHA argued that Order No. PSC-05-0902-S-EI,²¹ in Docket No. 050188-EI, upon which FPL relied to support its proposed recovery schedules, was a settlement that did not constitute precedent. (SFHHA BR 36) SFHHA argued that the unrecovered costs of the retiring assets is not primarily caused by or for the benefit of current customers, but rather for future customers who would receive service from new facilities placed into service because of interim retirements. (SFHHA BR 36) SFHHA argued that intergenerational equity concerns, as well as the impact of the current recession, warrant deviation from the policy of recovering retired equipment costs before new equipment costs are included in rates. (SFHHA BR 36-37)

ANALYSIS

Under the capital recovery schedule mechanism, the investment and associated reserve of installations facing near-term retirement are separated out as sub-accounts, and the unrecovered net amounts are amortized over the period of their remaining service to the public. The mechanism is in the Commission's depreciation rule, and is the standard practice of the Commission.²² (TR 6415)

FPL's proposed capital recovery schedules address the unrecovered costs associated with the near-term (2010-2013) retirement of the Cape Canaveral and Riviera steam plants, the St. Lucie and Turkey Point nuclear uprate projects, and the meters made obsolete by the new AMI technology. (EXH 115, pp. 55-57) FPL asserted that the use of capital recovery schedules ensures that recovery of retired equipment occurs close to, or before, their retirement. (EXH 37,

²¹ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket Nos. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company and 050188-EI, In re: 2005 Comprehensive depreciation study by Florida Power & Light Company. (FPL 2005 Rate Case Settlement Order)

²² FPL 2005 Rate Case Settlement Order; Order No. PSC-99-0073-FOF-EI, issued January 8, 2009, in Docket No. 971660-EI, In re: 1997 depreciation study by Florida Power & Light Company; and Order No. PSC-94-1199-FOF-EI, issued September 30, 1994, in Docket No. 931231-EI, In re: Request for change in Depreciation Rates by Florida Power and Light Company.

Item No. 37, No. 20) The proposed recovery period of four years coincides with the period between depreciation studies and closely matches the remaining period the associated assets will be providing service. (TR 6416-6417)

OPC did not dispute the need for capital recovery schedules, but did dispute how the costs should be recovered. OPC witness Pous proposed that: (1) the unrecovered costs associated with the retirement of the Cape Canaveral and the Riviera power plants be offset by a portion of FPL's identified reserve surplus for the steam production investment; (2) the unrecovered costs associated with the nuclear uprates be offset by a portion of FPL's identified reserve surplus for the nuclear production investment; and (3) the unrecovered costs associated with obsolete meters retiring due to AMI technology be offset by a portion of FPL's identified reserve surplus existing in the distribution function. This would eliminate the capital recovery schedule expense and reduce the reserve surplus. (TR 1836)

Staff believes that if recovery is not afforded for these identified net unrecovered near-term retirements during their remaining period of service, a negative reserve component will result relating to plant no longer providing service. Staff agrees with OPC that a portion of the reserve surplus discussed in Issues 19E and 19F can and should be used for the immediate recovery of these costs. This action will reduce the test year depreciation expense as well as the reserve surplus. Staff notes that FPL acknowledged in its brief that such action is an acceptable option and compromise between its position regarding the reserve surplus and the intervenors' proposals for a short amortization. (FPL BR 69-70)

SFHHA proposed that: (1) FPL's identified unrecovered costs associated with the near-term planned retiring Cape Canaveral and Riviera facilities should be added to the capital costs of the new repowered generating units; (2) the remaining net book value of the retired nuclear assets should be added to the uprated units for continued depreciation over the lives of those units; and (3) the remaining net book value, including removal costs of the retired meter investment, should be depreciated at the same rate as approved for the meter investment. (Kollen TR 3157-3159) SFHHA witness Kollen contended that:

- FPL's revenue requirement already includes the cost of advanced meters, so there is no need to accelerate the depreciation of old non-AMI investment;
- FPL's AMI deployment is the cause for the retirements of the existing non-AMI meters; therefore, it is reasonable to reclassify the existing non-AMI meters as a regulatory asset;
- FPL's proposal would require ratepayers to pay for existing non-AMI meter investment and the new AMI meter investment at the same time; and
- Since the existing non-AMI meters will be replaced at one time over a four-year period, FPL's four-year amortization proposal would "double-up" recovery for meters during that period. (TR 3159)

FPL witness Davis asserted that he agreed that nuclear uprate costs relating to plant additions should increase the plant investment and be depreciated over the life of the related group of assets. However, witness Davis disagreed that the net book value of the identified nuclear uprate retirements and associated removal costs should be deferred and recovered over

the remaining licensed life of each nuclear unit. (TR 6418) Regarding the replacement of obsolete meters with new AMI meters, witness Davis disagreed that FPL is "doubling up," as SFHAA suggested. (TR 6419)

The purpose of depreciation is to match expenses to the period the assets associated with those expenses are providing service to the public. Under group depreciation, it is recognized that some assets within the group will experience a life shorter than the average, while others will experience a life longer than the average. (TR 1839-1840) However, if there is a group of assets planned for near-term retirement that now have a significantly shorter life than the overall group life, the associated investments should be withdrawn from the group and recovered over their expected life as provided by the Commission's rules. This is the principle of matching expenses to consumption.

If assets retire earlier than the average life of the group without recovery being afforded, a negative reserve component is created. The negative reserve component translates into a positive rate base element. From the Company's standpoint, it will continue to earn a return on this non-existent plant over the life of the group. From the ratepayers' standpoint, they will continue paying for plant no longer providing service until the situation is corrected. Negative reserve amounts are non-life related net investments²³ that the Commission has historically corrected as fast as practicable to remedy the existing intergenerational inequity.²⁴

Staff believes that SFHHA's proposal would create a negative reserve component, the exact situation the capital recovery schedule mechanism avoids. Moreover, staff believes that deferring recovery is simply mortgaging the future. Ratepayers should pay their fair share of costs associated with plant from which they are receiving service. Unrecovered amounts associated with non-existent plant do not benefit ratepayers. Contrary to SFHHA's assertions, recovery of the identified unrecovered costs associated with planned near-term retirements over a period that matches the remaining period the related assets will provide service ensures intergenerational equity. Staff also disagrees that such recovery is "accelerated" as FPL, FIPUG, and SFHHA contended. Recovery that matches the service life is not accelerated; it reflects the matching principle. Finally, offsetting FPL's identified unrecovered costs provides immediate recovery and reduces test year depreciation expense, thus alleviating SFHHA's concerns.

CONCLUSION

Staff recommends approval of the capital recovery schedules contained in Table 19A-1. Staff also recommends that a portion of existing reserve surplus discussed in Issues 19E and 19F be used to offset the recovery schedule expenses.

²³ Non-life related net investments refer to unrecovered costs associated with plant that is no longer providing service to the public. Because the related plant has retired, there is no life over which to recover the costs. Thus, they are non-life related costs.

²⁴ Order No. PSC-09-0229-PAA-GU, issued April 13, 2009, in Docket No. 080548-GU, In Re: 2008 depreciation study by Florida Public Utilities Company, p. 3; Order No. PSC-03-0260-PAA-GU, issued February 24, 2003, in Docket No. 010906-GU, In re: Request for approval of depreciation study for five-year period 1996 through 2000 by Sebring Gas System, Inc., p. 3; Order No. PSC-02-1492-PAA-GU, issued October 31, 2002, in Docket No. 010383-GU, In re: Application for approval of new depreciation rates by Tampa Electric Company d/b/a Peoples Gas System, p. 3; Order No. PSC-01-2270-PAA-EI, issued November 19, 2001, in Docket No. 010669-EI, In re: Request for approval of implementation date of January 1, 2002, for new depreciation rates for Marianna Electric Division by Florida Public Utilities Company, p. 2.

Table 19A-1: Capital Recovery Schedules				
	Estimated Investment 12/31/2009	Estimated Reserve 12/31/2009	Estimated Cost of Removal	Total Unrecovered costs
Steam Plant Retirements				
Cape Canaveral Common				
311 Structures & Improvements	14,150,126	12,611,980		1,538,146
312 Boiler Plant Equipment	1,849,558	674,585		1,174,973
314 Turbogenerator Units	1,022,283	537,299		484,984
315 Accessory Equipment	727,205	400,288		326,917
316 Misc. Equipment	649,164	635,515		13,649
Total Cape Canaveral Common	18,398,336	14,859,667		3,538,669
Cape Canaveral Unit 1				
311 Structures & Improvements	1,699,261	1,185,805		513,456
312 Boiler Plant Equipment	58,317,673	49,045,408		9,272,265
314 Turbogenerator Units	29,691,699	17,501,297		12,190,402
315 Accessory Equipment	4,575,178	3,411,278		1,163,900
316 Misc. Equipment	454,247	446,053		8,194
Total Cape Canaveral Unit 1	94,738,058	71,589,841		23,148,217
Cape Canaveral Unit 2				
311 Structures & Improvements	1,460,458	1,476,474		(16,016)
312 Boiler Plant Equipment	49,029,068	45,864,642		3,164,426
314 Turbogenerator Units	18,405,448	12,974,004		5,431,444
315 Accessory Equipment	4,980,181	4,984,124		(3,943)
316 Misc. Equipment	516,363	476,595		39,768
Total Cape Canaveral Unit 2	74,391,518	65,775,839		8,615,679
Riviera Common				
311 Structures & Improvements	9,194,438	93,788,335		(84,593,897)
312 Boiler Plant Equipment	651,151	580,853		70,298
314 Turbogenerator Units	1,221,674	1,115,841		105,833
315 Accessory Equipment	2,048,442	2,056,365		(7,923)
316 Misc. Equipment	838,293	765,531		72,762
Total Riviera Common	13,953,998	13,897,425		56,573
Riviera Common Unit 3				
311 Structures & Improvements	323,577	169,948		153,629
312 Boiler Plant Equipment	26,644,720	24,867,091		1,777,629
314 Turbogenerator Units	20,348,570	16,753,158		3,595,412
315 Accessory Equipment	2,480,171	2,404,136		76,035
316 Misc. Equipment	117,897	57,070		60,827
Total Riviera Common Unit 3	49,914,935	44,251,403		5,663,532
Riviera Common Unit 4				
311 Structures & Improvements	107,740	105,392		2,348
312 Boiler Plant Equipment	20,735,379	18,833,063		1,902,316
314 Turbogenerator Units	15,546,279	14,814,063		732,216
315 Accessory Equipment	3,401,126	2,156,145		1,244,981
316 Misc. Equipment	47,438	45,433		2,005
Total Riviera Common Unit 4	39,837,962	35,954,479		3,883,483
Total Steam Plant Retirements	291,234,807	246,328,654		44,906,153

Table 19A-1: Capital Recovery Schedules				
	Estimated Investment 12/31/2009	Estimated Reserve 12/31/2009	Estimated Cost of Removal	Total Unrecovered costs
Nuclear Upgrades				
St. Lucie Unit 1				
322 Reactor Plant Equipment	3,089,857	1,285,383	2,171,874	3,976,348
323 Turbogenerator Units	46,415,739	23,026,980	11,780,444	35,169,203
324 Accessory Equipment	108,098	107,964	1,675,065	1,675,199
Total St. Lucie Unit 1	49,613,694	24,420,327	15,627,383	40,820,750
St. Lucie Unit 2				
322 Reactor Plant Equipment	8,170,947	5,445,563	788,236	3,513,620
323 Turbogenerator Units	68,116,907	47,503,584	12,173,427	32,786,750
324 Accessory Equipment	444,059	280,915	984,302	1,147,446
Total St. Lucie Unit 2	76,731,913	53,230,062	13,945,965	37,447,816
Turkey Point Common				
322 Reactor Plant Equipment	254,355	26,072		228,283
323 Turbogenerator Units	2,065,043	144,410		1,920,633
Total Turkey Point Common	2,319,398	170,482		2,148,916
Turkey Point Unit 3				
321 Structures & Improvements	541,965	440,388	289,308	390,885
322 Reactor Plant Equipment	13,326,530	12,658,412	15,309,927	15,978,045
323 Turbogenerator Units	37,480,833	22,160,888	12,054,706	27,374,651
324 Accessory Equipment	371,220	366,648	183,116	187,688
Total Turkey Point Unit 3	51,720,548	35,626,336	27,837,057	43,931,269
Turkey Point Unit 4				
321 Structures & Improvements	192,250	192,250	290,492	290,492
322 Reactor Plant Equipment	13,393,985	13,120,597	15,326,786	15,600,174
323 Turbogenerator Units	40,012,223	24,247,736	12,047,391	27,811,878
324 Accessory Equipment	314,044	314,044	183,694	183,694
Total Turkey Point Unit 4	53,912,502	37,874,627	27,848,363	43,886,238
Total Nuclear Upgrades	234,298,055	151,321,834	85,258,768	168,234,989
Meters				
370 Obsolete by AMI	249,077,327	171,613,059	23,617,590	101,081,858
Total Capital Recovery Schedules	774,610,189	569,263,547	108,876,358	314,223,000

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

Recommendation: No. Staff believes that FPL's calculation of remaining life leads to questionable results. Staff recommends a remaining life calculation based on using the average age of the given account with the selected survivor curve. Staff's recommended remaining lives addressed in Issues 19C and 19D are based on this recommended calculation. (P. Lee)

Position of the Parties

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

Yes. FPL used the Average Service Life Procedure and applied it correctly to calculate remaining life.

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 to 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.

OPC: No. FPL's consultant departed from the appropriate methodologies in several respects.

FPL incorrectly limits the allocated book reserve to the surviving balance of an individual vintage, adjusted for net salvage. This artificial limitation conflicts with reality and distorts the calculation of remaining life. Also, FPL's witness recognizes the impact of net salvage parameters within the remaining life calculation rather than after the remaining life calculation. A methodology under which a change in net salvage also changes the calculation of remaining life is illogical and inappropriate. These flaws affect the calculation of depreciation expense and also of the amount of FPL's excess reserve. OPC's witness corrects these flaws in his analysis.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: Yes. FPL's calculation of the average remaining life is appropriate.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No. FPL has systematically overstated depreciation rates and expense by understating the life spans of its generating units. FPL's combined cycle plants should have minimum forty year service lives for depreciation purposes. See Response to 19C.

Staff Analysis: This issue addresses FPL's calculation of the remaining life.²⁵ FPL and OPC provided testimony addressing the calculation. AIF did not provide testimony but supported FPL's position. AG, FIPUG, and FRF also proffered no testimony but adopted OPC's position. SFHHA's position related to the appropriate inputs to the remaining life calculation rather than to the calculation itself. Input disputes are addressed in Issues 19C and 19D. No other party took a position on this issue.

PARTIES' ARGUMENTS

FPL

FPL did not address OPC's disagreement with the Company's remaining life calculation in its brief. FPL witness Clarke explained that his calculation of remaining life prorated the book reserve for the account to each vintage. In performing this proration, the total reserve allocated to each vintage is limited so it does not exceed the total vintage original cost less proposed net salvage.²⁶ (TR 2769; EXH 115, p. 172; EXH 35, Item No. 37, No. 35) Witness Clarke asserted that this provides that annual depreciation expenses are calculated only for those vintages that have future costs remaining to be recovered. A composite depreciation rate results that is appropriate for the plant balances going forward and in the necessary amount of depreciation expense. (TR 2771)

FPL witness Clarke explained that OPC used what is referred to as the direct weighting method of calculating a composite remaining life for an account.²⁷ The composite life is then used to calculate annual depreciation expenses for the account. Witness Clarke asserted that this latter step is not necessary using his method, because expenses are calculated for each vintage. (TR 2770) Witness Clarke testified that the remaining life for each vintage is determined using a survivor curve²⁸ consistent with standard group depreciation concepts.²⁹

OPC

OPC argued that FPL inappropriately relied on a truncated Iowa curve³⁰ approach for its production assets rather than a constant retirement rate.³¹ OPC contended that FPL's approach leads to unrealistic and inappropriate results. (OPC BR 28)

²⁵ The remaining life is the period of years remaining, on average, that the group of assets being studied is expected to provide service to the public.

²⁶ Net salvage is gross salvage less cost of removal. Gross salvage is the amount received from trade-in or sale of the asset. Cost of removal relates to the costs incurred for the removal and disposal of the retired asset. Net salvage can be either positive where gross salvage exceeds cost of removal, or negative in cases where cost of removal is greater than gross salvage. (Pous TR 1823)

²⁷ The direct weighting method is described in Determination of Straight-Line Remaining Life Depreciation Accruals, Standard Practice U-4, published by the California Public Utilities Commission. (CRC-7; TR 2770-2771)

²⁸ A survivor curve is a graphical picture of the amount of property (in dollars), that exists at each age (in years), throughout the life of a property group. (EXH 115, p. 15)

²⁹ Group depreciation assumes that some items of plant will retire before the average service life while others will retire after the average service life. (Pous TR 1839-1840; Clarke TR 2771))

³⁰ Iowa curves, published by Iowa State College in 1935, were developed by analyzing the ages at which industrial property had retired. (EXH 115, p.17) An Iowa curve, when used in conjunction with other inputs, provides the remaining life. A truncated Iowa curve means that no vintage will survive past the estimated date of final retirement. (EXH 115, pp. 12, 37-38)

OPC argued that FPL's remaining life calculation incorrectly limited the allocated book reserve to the individual vintages, adjusted for proposed net salvage. This artificial limitation ignored the fact that the investments in earlier vintages are still in service and still part of the investment to which the depreciation rate is applied, thus distorting the calculated remaining life. (OPC BR 28)

Additionally, OPC argued that FPL incorporated net salvage parameters as part of the remaining life calculation, rather than after the calculation. As such, a change in net salvage estimates would affect the remaining life calculation. (OPC BR 28)

AIF

The AIF brief addressed its position regarding FPL's remaining life estimates, including life spans of generating facilities. AIF did not discuss FPL's calculation of remaining life.

ANALYSIS

This issue addresses whether FPL's mathematical calculation of the remaining life is appropriate. Based on the record in this proceeding, staff believes that FPL's remaining life calculation leads to questionable results.

OPC disputed FPL's use of a truncated Iowa curve in its life analysis for the production plant accounts. Staff believes that this argument relates to the way in which FPL accounted for interim retirements in its life determinations. Staff submits that this is more an issue with an input to the development of remaining life, rather than a calculation issue. For this reason, staff will address OPC's arguments in Issue 19C rather than in the instant issue.

As part of its remaining life calculation, FPL allocated the actual book reserve for a given account to the individual surviving balances based on the theoretical or calculated reserve. OPC witness Pous took issue with two aspects of this allocation process. (TR 1839) First, the process limited the allocated book reserve to the surviving balance of an individual vintage so that the reserve for the vintage did not exceed the total vintage original cost less net salvage. (TR 1839) Second, the impact of net salvage parameters was recognized in the remaining life calculation rather than after the calculation. (TR 1840) Witness Pous used an industry standard remaining life calculation, which is the same one that Progress Energy Florida, Inc. (PEF) used in Docket No. 090079-EI. (TR 1816, 1842)

Regarding his criticisms, witness Pous demonstrated that FPL's remaining life calculation ignored the fact that vintages to which no reserve was allocated were still in service and still accruing depreciation. (TR 1839-1841; EXH 184) Moreover, witness Pous explained that in group depreciation, some items of plant are assumed to retire before the average service life while others will retire after the average service life. On average, though, depreciation expenses over the life of the group will equal the total investment adjusted for net salvage. (TR 1839-1840) Witness Pous demonstrated that if the book reserve is allocated to all vintages as it should, different vintage remaining lives result. (EXH 184; TR 1841)

³¹ A constant interim retirement rate assumes that a constant amount of investment is expected to retire each year throughout the overall life span of the production facility.

FPL explained that it determined the remaining life annual depreciation expense for each vintage by dividing the future book expenses (original cost less book reserve) by the average remaining life of the vintage. The average remaining life for each vintage was a directly weighted average derived from the estimated future survivor curve. (EXH 115, p. 43) FPL witness Clarke testified that the remaining life calculated for each vintage took into account that a portion of each vintage will retire before the average service life and a portion will retire after the average service life, consistent with group depreciation concepts. Moreover, by limiting depreciation expenses only to vintages that are not fully accrued, expenses were calculated only for those vintages that had future costs remaining to recover. Witness Clarke contended that this resulted in a composite annual depreciation rate that is appropriate for the plant balances going forward and resulted in the appropriate amount of needed depreciation expenses. (TR 2771)

Staff disagrees with FPL that its remaining life calculation is consistent with FPL's actual practice. Staff observes that FPL does not maintain its plant account reserves by vintage; they are maintained on a total account basis. Also, depreciation rates are not applied to individual vintages; the rates are applied to the total account balance. Allocating the book reserve to individual vintages based on a theoretical reserve calculation is not necessarily a concern. However, in its allocation, FPL determined that the reserve for any given vintage could not exceed the survivors for that vintage less net salvage. For example, in reviewing the calculation presented for Account 396.1, Power Operated Equipment, staff notes that no reserve was allocated to the 1986-2000 vintages because the allocation of the reserve indicated that these vintages were fully accrued. That is because the most allocated to any given vintage was the surviving investment for that vintage less net salvage. These vintages represent more than 36 percent of the plant account investment. Staff believes this is a significant amount of investment that has no remaining life. (EXH 115, p. 712) Looking at Account 396.8, Other Power Operated Equipment, FPL uses an L0.5 Iowa curve and 9-year life combination. The average age of the account is 7.5 years. Using the method endorsed by OPC, the remaining life of the account is 5.2 years, compared to the Company's calculation of zero. (EXH 115, p. 717) While this account has an existing reserve surplus, that should not deter from the fact that it does indeed have a remaining life using FPL's proposed curve and life combination.

Staff notes that FPL did not dispute that net salvage impacts its calculation of remaining life. Staff submits that net salvage impacts the remaining life depreciation rate, not the average remaining life itself.³² Unfortunately, because FPL's calculation assumes that no vintage can have more reserve allocated than the surviving investment less net salvage, as net salvage varies, so does the remaining life. For all the foregoing reasons, staff believes that FPL's remaining life calculation leads to questionable results. Staff's recommended remaining lives addressed in Issues 19C and 19D are calculated by applying the average age of the account to the selected survivor curve. This is similar to OPC's calculation of remaining life and PEF's calculation in its depreciation study in Docket No. 090079-EI. (TR 1842) Staff's recommended remaining lives addressed in Issues 19C and 19D use this calculation.

CONCLUSION

Staff believes that FPL's calculation of remaining life leads to questionable results. Staff recommends a remaining life calculation based on using the average age of the given account

³² Remaining Life Rate = (100-Net Salvage-Reserve)/Average Remaining Life. (Rule 25-6.0436 (1)(e), F.A.C.)

Docket Nos. 080677-EI, 090130-EI
Date: December 23, 2009

with the selected survivor curve. Staff's recommended remaining lives addressed in Issues 19C and 19D are based on this recommended calculation.

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.)?

Recommendation: Staff's recommended depreciation parameters and resulting depreciation rates for production plant are shown on Table 19C-2. The reserve positions shown incorporate the effects of the staff recommended reserve allocations addressed in Issue 19F. The resultant test year depreciation expenses based on the staff recommendation in this issue and in Issue 19D are addressed in Issue 131. (P. Lee)

Position of the Parties

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.

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.

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.

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.

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.

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.

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.

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.

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).

OPC: The appropriate depreciation parameters should be determined using the recommendations of OPC witness Pous regarding the appropriate life spans, remaining life calculations, the level of interim retirements, net salvage, and depreciation rates address in the subissues below:

Coal-fired – FPL's proposed 40 year life span is artificially short. Empirical evidence, treatment in other jurisdictions, and FPL's expectations, reflect a 60-year life span. Large steam Oil/Gas fired – The actual 50+ years (and counting) experience of FPL's smaller units argue for OPC witness Pous' recommended 50-year life span. Combined Cycle – FPL's 25-year life span is unrealistically short. At minimum, FPL should be directed to evaluate available information and develop a more appropriate life span in its next depreciation study. If the Commission decides to revise the life span for combined cycle units in this proceeding, it should set the minimum value at 35 years, consistent with the testimony of FIPUG witness Pollock.

FPL relied on an inappropriately truncated actuarial analysis to estimate interim retirements. FPL compounded its error when it applied a life-curve that was not a good fit to the data. The company's approach leads to demonstrably unrealistic results. OPC witness Pous used a standard method even used by FPL's witness for most of his career, and actual Company-specific information to develop interim retirement ratios. This better approach results in a \$54,916,074 reduction in depreciation expense.

FPL's request is overstated due to its approach to the quantification of interim retirements. FPL has proposed excessively negative levels of overall net salvage – the beginning point of the process – which then results in excessively negative interim retirement levels of net salvage. OPC's more appropriate results are based on investigation of the specific data within FPL's database. The individual adjustments (which reduce depreciation by \$74 million annually) are reflected in OPC's brief.

The Commission should adopt the depreciation rates as recommended by OPC witness Jacob Pous. The cumulative effect of his recommendation is to reduce annual depreciation expense from FPL's requested \$1,065,623,140 to \$824,950,126, or a reduction of \$240,673,014.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports the position of FPL incorporated into the depreciation study FPL filed on March 17, 2009, subject to the adjustments made in FPL Witness Ousdahl's Exhibit KO-16.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: FPL has significantly understated the life span of its units. The Commission should use a life span of at least 55 years for FPL's coal units and a life span of at least 35 years for FPL's combined cycle units.

FRF: Agree with OPC that the appropriate parameters are as set forth in the testimony and exhibits of the Citizens' witness Jacob Pous.

SFHHA: FPL has overstated depreciation expense by understating the life spans of its generating units. FPL's combined cycle plants should have forty-year service lives for depreciation purposes. Adjustments to FPL's depreciation expense should also be made for FPL's Customer Information System, capital expenditure reductions, and changes to amortization schedules for Cape Canaveral and Riviera, nuclear uprates, and AMI meters. Also, FPL's existing depreciation reserve surplus of \$1.245 billion should be amortized over five years.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL argued that its depreciation study was conducted consistent with Commission rules and policies, and is consistent with industry ranges while based on FPL-specific data. (FPL BR 9, 55) FPL argued that the intervenors' approaches lacked the precision that results from incorporating Company-specific knowledge and industry-approved methodologies. (FPL BR 55) FPL argued that even though the intervenor witnesses made specific recommendations, none met with Company personnel or examined any of the FPL's production plants. (FPL BR 55)

1. Life Spans

FPL witness Hardy asserted that FPL's current 25, 35, and 40 year life expectations were appropriate for its combined cycle units, large oil and gas-fired steam units, and coal-fired units, respectively. (TR 6263, 6277) Witness Hardy testified that FPL's life spans for its generating facilities were based on the design life of the specific plant, the engineered components contained within the plant, the environment in which the unit operated, and the way the unit was operated. (TR 6265) The witness averred that when compared with the average life of industry generating units at retirement, FPL's proposed life spans were reasonable. (TR 6263)

Witness Hardy testified that the proposed 25-year life span for FPL's combined cycle units was based on the engineered design life and the units' heavy cycling. (TR 6266) The witness asserted that the manufacturer estimated the physical life of the combustion turbine to be 25 years when units are heavily cycled. (TR 6306-6308)

The witness explained that FPL's customer base was largely residential and commercial, resulting in a profile that required the Company to cycle units off at night and start up units during the day. The cycling increased over the past six years and was expected to continue in the future. (TR 6266, 6296) Cycling, the witness averred, enabled FPL to shape the operation of its generation. (TR 6296-6298)

Witness Hardy explained that the 35-year life span for the large gas-fired units at Martin and Manatee was also based on the heavily cycling of these units. (TR 6267) The witness averred that these units were re-tasked from baseload to cycling units because it permitted customers to receive the fuel efficiency and environmental benefits of FPL's cleaner and more modern units, thereby contributing to FPL's overall cost of generation and environmental performance. (TR 6267) Finally, the witness asserted that six of FPL's mid-sized cycling oil and gas-fired units had retired at 33 years of age for economic repowering benefits. The witness contended that this fact further supported FPL's 35-year life span. (TR 6267)

Regarding FPL's coal units, witness Hardy asserted that a 40-year life span continued to be reasonable based on original design expectations, and also took into account the potential effect of future environmental regulations on coal technology. (TR 6268) Moreover, it would be inappropriate to set life spans beyond the design lives because that required unknown levels and time of capital expenditures. (TR 6270)

FPL argued in its brief that the OPC, FIPUG, and SFHHA proposed life spans were based on "broad industry reviews and sweeping generalizations." (FPL BR 60) Similar units elsewhere could have different operating characteristics or environmental considerations and so were an inappropriate basis for comparison. (TR 6388-6390)

FPL witness Davis testified that expanding the life span of coal plants to 60 years as OPC and FIPUG proposed would create stranded investments (unrecovered costs) if they became uneconomical to operate. (TR 6408-6409) FPL argued in its brief that climate change legislation could adversely affect the economics of coal-fired plants and less efficient oil-fired plants causing them to retire earlier than expected. (FPL BR 60) Witness Davis testified that these possibilities should be considered in evaluating the life spans of FPL's generating units. (TR 6408)

2. Interim Retirements and Net Salvage

FPL argued in its brief that it appropriately quantified the level of interim retirements using an Iowa Curve with a distinct retirement pattern that matched the type of property in each production plant account. (FPL BR 61) Witness Clarke asserted that this method took into account that property would be retired at different ages, and was more accurate as compared to a constant retirement rate that OPC used. (TR 2775-2785) Witness Clarke testified that OPC's proposed interim net salvage values were similarly inappropriate because they are based, in part, on OPC's use of a constant retirement rate. (TR 2788-2796)

OPC

1. Life Spans

OPC witness Pous proposed a 60-year life span for FPL's Scherer and SJRPP coal units and a 50-year life span for the Martin and Manatee steam-fired units. (TR 1852-1853) The witness asserted that FPL's life spans were too short. (TR 1847) Based on FPL's actual operation of other units, the witness averred that FPL had demonstrated that oil and gas-fired facilities could operate for longer than 50 years. The witness reasoned that if FPL expected to operate smaller less efficient generating facilities for 60 years or longer, then life spans for larger

and more costly facilities should not be limited to a 40-year life span. Witness Pous asserted that FPL's proposed life spans were contrary to standard economic theory that dictated that large capital investments should be operated to maximum levels to deliver the economic worth the facilities were capable of obtaining. (TR 1848)

In its brief, OPC argued that the record established that Georgia Power, which owned a similar unit on the same Scherer site, employed a 55-year life span for the coal unit. (TR 3072) OPC argued that FPL agreed that the four Scherer coal-fired units were similar in size, design, and vintage. (OPC BR 29) OPC argued that there was no support for FPL's assumption that Scherer Unit 4 would have a life span of only 40 years. (OPC BR 29)

Witness Pous noted that empirical data suggested life spans for coal and steam-fired generating units of 50 to 60 years. (TR 1848-1849) The witness cited recent cases in which 60-year life spans were adopted for steam facilities. (TR 1849-1850) Additionally, the witness asserted that the database maintained by the Energy Information Administration of the Department of Energy contained empirical data supporting life spans longer than those FPL proposed. (TR 1850-1851) Moreover, OPC witness Pous asserted that FPL had already operated smaller oil and gas-fired units for more than 50 years, and had indicated its expectation that the smaller units would remain in service for 60 years. (OPC BR 29; TR 1848) Therefore, FPL's shorter lives for larger, more efficient and more valuable units made little sense. (OPC BR 29)

Witness Pous testified that there was nothing from a physical standpoint to refute that coal, oil and gas-fired generating facilities have operated longer. Also, FPL presented no economic analysis demonstrating that these units could not operate longer than FPL proposed. Regarding carbon emissions, witness Pous asserted that based on what is known today, these large and efficient units could be expected to operate longer than FPL's proposed retirement dates. (TR 1851-1852)

For combined cycle units, witness Pous contended that FPL's proposed 25-year life span was understated. The witness testified that other utilities and regulators were recommending longer life spans. Witness Pous recommended that FPL be directed to perform a detailed analysis demonstrating why its combined cycle units could not be expected to operate 35 years or longer and present the study in its next depreciation filing. For the instant proceeding, witness Pous asserted that a life span of 30 to 35 years would not be unreasonable, as an initial step in the right direction. (TR 1849)

2. Interim Retirements and Net Salvage

OPC argued that FPL's request was overstated due to its approach to the quantification of interim retirements.³³ OPC viewed FPL's proposed interim net salvage levels as excessively negative. OPC argued that its proposals were more appropriate because they were based on investigation of FPL's specific data. (OPC BR 30)

³³ Interim retirements refer to components that are not expected to live the entire life span of the generating facility. (TR 1855)

AIF

1. Life Spans

AIF did not proffer testimony but addressed this issue in its brief. AIF argued that FPL witness Hardy's testimony demonstrated that FPL itself was in the best situation to establish its own depreciation period given it is the controller of the plants and generation. AIF argued that reliance on an outside observer with no recent utility experience and no development expertise approaching FPL's expertise was ludicrous. (AIF BR 16)

Moreover, AIF argued that the intervenors' assertion that reliance on manufacturers' documentation should not govern FPL's applicable life spans, is an overly simplistic approach and ignored the reality that FPL pioneered the technology of its combined cycle units. Accordingly, AIF argued that FPL's position on this issue should be approved.

2. Interim Retirements and Net Salvage

AIF did not proffer any arguments in its brief regarding FPL's proposed level of interim retirements or interim net salvage values.

AG

AG did not file testimony addressing the depreciation lives and salvage values. In its brief, however, AG adopted the positions of OPC. (AG BR 7)

FIPUG

1. Life Spans

In its brief, FIPUG argued that FPL witness Clarke obtained information regarding the life spans of plants at issue from FPL personnel. FIPUG argued that witness Clarke was unfamiliar with any individual information about the FPL plants. Witness Clarke knew nothing about FPL's maintenance practices nor could he describe anything unique about such practices. (FIPUG BR 19)

FIPUG argued that FPL's proposed life span for its coal plants understated the plants' lives. (FIPUG BR 19) FIPUG witness Pollock proposed a 55-year life span for FPL's coal units and a minimum of 35 years for the combined cycle units. (TR 2946, 2948) The witness based his proposals on actual plant lives, life spans used by other utilities, and decisions by other regulatory commissions. (TR 2943, 2947-2948) Witness Pollock asserted that FPL had not justified its proposed life spans based on the fact that (1) retirement dates for these plants were not indicated in FPL's most recent Ten-Year Site Plan, and (2) FPL had not explained why these units could not be operated longer than it proposed. (TR 2944, 2949)

The witness noted that two of the biggest operators of coal units, American Electric Power Company and Southern Company, had determined that life spans of at least 60 years were more achievable. (TR 2945) Moreover, Plant Scherer, which FPL partially owns, had a life span of 55 years. Finally, the witness noted that Gulf Power Company had extended the life spans of its coal units to 65 years. Considering the significant investment in coal plants, the witness

reasoned that it should be cost-effective to maintain the coal plants over the long term. (TR 2946)

Witness Pollock asserted that FPL's Putnam combined cycle units have been in service for more than 30 years. (TR 2948) Also, Gulf Power recently extended the life of Plant Smith to 34 years.³⁴ (TR 2948) The witness contended that these facts supported a life span for combined cycle units of 35 years. (TR 2948)

2. Interim Retirements and Net Salvage

FIPUG did not address FPL's proposed interim retirement levels or interim net salvage proposals.

FRF

1. Life Spans

FRF did not offer testimony but agreed with the testimony of OPC witness Pous. Accordingly, FRF supported a 60-year life span for FPL's coal-fired units and a 50-year life span for FPL's large steam oil- or gas-fired plants. For combined cycle facilities, FRF argued that, based on other utilities' proposals and the characteristics of FPL's combustion turbines and steam generation units, as well as FPL's experience with its Putnam plant, a life span of 40 years is appropriate. At a minimum, FRF argued that FPL should be directed to evaluate available information and develop a more appropriate life span in its next depreciation study. (FRF BR 47)

2. Interim Retirements and Net Salvage

FRF argued in its brief that FPL inappropriately relied on a truncated actuarial analysis in estimating interim retirements. This was further compounded when FPL applied a life curve that was not an appropriate fit to the data. Thus, FPL's level of interim retirements was overstated. On the other hand, OPC's approach to interim retirements used a standard method and actual Company-specific data. (FRF BR 47-48)

Regarding FPL's proposed interim net salvage values, FRF argued that FPL's approach overstated negative interim net salvage due to its approach in quantifying interim retirements. FRF supported the net salvage proposals of OPC witness Pous, arguing that those were based on an investigation of FPL-specific data. (FRF BR 48)

SFHHA

1. Life Spans

SFHHA witness Kollen proposed a 40-year life span for FPL's combined cycle units. The witness reasoned that if FPL's Putnam combined cycle units could experience life spans of 42 to 43 years, then a 40-year life span was appropriate for new combined cycle units. (TR 3161-3162) Additionally, witness Kollen noted that other utilities used a 40-year life span for

³⁴ Order No. PSC-07-0012-PAA-EI, issued January 2, 2007, in Docket No. 050381-EI, In re: Depreciation and dismantlement study at December 31, 2005, by Gulf Power Company.

combined cycle units. Finally, witness Kollen asserted that generating units are not retired if they remain economic to generate. Unless FPL can demonstrate why its combined cycle units will operate only for 25 years, a 40-year life span should be assumed. (TR 3162)

2. Interim Retirements and Net Salvage

SFHHA did not address FPL's proposed interim retirement levels or interim net salvage proposals.

Other Parties

No other party took a position on this issue.

ANALYSIS

This issue addresses the appropriate remaining lives,³⁵ net salvage values, and resulting depreciation rates for FPL's production plants. The reserve position is addressed in Issue 19F. Based on the record in this proceeding, staff recommends adjustments to FPL's proposed remaining lives and net salvage values.

FPL proposed depreciation rates for its plant investment through December 31, 2009. In addition, FPL proposed depreciation rates for production plants projected to become operational after the test year. The depreciation rates for "Future Units" will be implemented at the time of commercial operation. (Pous TR 1810)

The remaining life rate is designed to recover the remaining unrecovered balance (investment less net salvage less reserve) over the remaining life of the associated investment. The formula for the remaining life rate is the plant investment (represented as 100percent) minus net salvage percent minus reserve percent divided by the average remaining life in years. The reserve represents the portion of the investment accumulated through depreciation expense to date unless restated to another level. (Rule 25-6.0436, F.A.C.)

FPL used the life span technique in studying its production plants. This technique requires that a date of final retirement be estimated for each production unit. (EXH 115, p. 12; TR 2743-2744; Pous TR 1822) The technique also requires estimation of the level of interim retirements that will occur before the final retirement of the generating unit.³⁶ (EXH 35, Item No. 114) The Company used an interim retirement survivor curve³⁷ to account for expected interim retirements. The curve was developed by performing a statistical analysis that analyzed historical retirements and incorporated judgment and industry information. (EXH 35, Item No. 114) The economic retirement date of a facility affected each year of installation for the facility by truncating the interim survivor curve for each installation year at the year of expected

³⁵ Staff observes that both FPL and OPC recognized that depreciation involves estimates. (Clarke TR 2741; Pous TR 1804, 1821) For this reason, staff believes there is little reason to be as precise as a hundredth of a year in estimating remaining lives. Staff's recommended lives reflect the rounding of lives over 20 years to the nearest whole year and lives less than 20 years to the tenth of a year.

³⁶ As an example, interim retirements for a building would consist of assets such as plumbing, heating, doors, windows, and roofs. (TR 2744)

³⁷ A survivor curve graphically depicts the amount of property (in dollars) existing at each age (in years) throughout the life of a group of property. (EXH 115, p. 15)

retirement. (TR 2744) The life span³⁸ for each account was based on the make-up of the property within the given account, experience in the industry, current forecasted life spans, the Company's resource plan, and information from Company personnel. FPL noted that the estimated retirement dates were established for depreciation purposes and did not commit FPL to actually retiring any production units on those dates. (EXH 115, pp. 37-38)

The parties disagreed with the life spans FPL assumed in the depreciation study. The intervenors asserted that FPL's proposed life spans were too short. (Pous TR 1845, 1847; Pollock TR 2945) OPC also disagreed with FPL's level of interim retirements and interim net salvage.

Net salvage is the amount received from gross salvage less cost of removal. Gross salvage is the amount received from sale, reuse, or sometimes the reimbursement from retired property. Cost of removal relates to costs incurred in the removal and disposing of retired plant. (TR 1934-1935) Net salvage is positive when gross salvage exceeds cost of removal and negative when cost of removal is greater than gross salvage. (TR 1823) Net salvage associated with production plant is associated with the interim retirements expected to retire prior to the retirement date of the generating facility. (TR 1813)

1. Life Spans

FPL proposed a 40-year life span for its Scherer and SJRPP coal-fired plants. For the remainder of FPL's steam-fired facilities, FPL proposed a retirement date of mid-2020, resulting in the two newer stations, Martin and Manatee, having life spans ranging from 39 to 44 years, and low 50-year to mid 60-year life spans for the remaining stations. (EXH 124; EXH 115, p. 38, 181, 193, 232-233, 243) For its combined cycle units, FPL proposed a life span of 25 years. (EXH 124; EXH 115, pp. 39, 297-374)

OPC witness Pous proposed a 60-year life span for FPL's Scherer and SJRPP coal-fired generating stations. For FPL's Manatee and Martin plants, OPC witness Pous proposed a 50-year life span. (TR 1853) The witness did not propose an adjustment to FPL's assumed 25-year life span for combined cycle units even though he asserted that 25 years was artificially short. (TR 1818) The witness proposed that FPL be directed to perform a detailed analysis demonstrating why its combined cycle facilities cannot be expected to operate for 35 years or longer, and present the study in its next depreciation study filing. However, the witness suggested that a life span of 30 or 35 years would represent an initial step in bringing FPL's life spans more in line with reasonable expectations. (TR 1854)

FIPUG witness Pollock proposed a life span of 55 years for FPL's coal units. (TR 2946) For combined cycle units, FIPUG witness Pollock proposed a life span of at least 35 years. (TR 2948) FIPUG based its proposed life spans on life spans determined in other regulatory proceedings throughout the country, life spans used by other utilities, and the actual life spans of some of FPL's units. (TR 2944-2948)

SFHHA witness Kollen did not address the life span of FPL's coal units, but proposed a life span of 40 years for FPL's combined cycle plants. (TR 3161) SFHHA reasoned that if the

³⁸ A life span is the time period when a unit goes into commercial operation and the estimated date of retirement. (TR 1812)

Putnam combined cycle plant could experience a life span of 42 to 43 years, there was no reason to assume a shorter 25-year life span for other combined cycle units. (TR 3161-3162; EXH 320) As additional support for its proposal, SFHHA referred to the experience of other utilities that use a 40-year life span for combined cycle units. (TR 3162; EXH 321) Finally, SFHHA asserted that FPL had not demonstrated that it would conclusively operate these units for only 25 years.

In support of its position, OPC asserted that FPL had demonstrated through actual operation that its oil- and gas-fired generating facilities can operate for more than 60 years. (EXH 115, pp. 135-150; Pous TR 1848) OPC witness Pous and FIPUG witness Pollock noted that other utilities and regulatory commissions have recognized 50 to 60 year or longer life spans for steam generating facilities. (Pous TR 1849-1850; Pollock TR 2944-2945) Moreover, OPC witness Pous referenced the Energy Information Administration of the Department of Energy's database that contains data on generating units demonstrating longer life spans than FPL proposed. (TR 1850-1851) Finally, the witness stated that FPL had not provided any economic analysis that demonstrated that its facilities could not operate for longer periods that it had proposed. (TR 1851)

FPL contended that the intervenors' reliance on industry statistics from other electric utilities in making their proposals did not consider any of the unique circumstances related to the operations, design life, cycling, or maintenance practices of FPL's production plants. (TR 2765) While this may be true, staff believes that FPL's actual operations are compelling.

For FPL's coal plants, Scherer and SJRPP, staff recommends use of a 50-year life span. Staff believes this life span reflects a compromise position between the life spans proposed by FPL and the longer life spans proposed by OPC and FIPUG, and recognizes uncertainties regarding environmental and climate change legislation. For the Manatee and Martin steam plants, staff believes that OPC's proposed 50-year life span is reasonable. For the Port Everglades plant, staff recommends a 60-year life span. Staff believes FPL's life span of 59 years for the Sanford plant, 66 years for the Cutler plant, and 53 years for the Turkey Point plant are reasonable.

When combined cycle plants are operating for more than 25 years, staff believes this indicates that a 25-year life span is no longer appropriate for depreciation purposes. While FIPUG and SFHHA recommend life spans of 35 or 40 years for combined cycle plants, staff notes that OPC suggested that 30 to 35 years would be a step in the right direction. Staff recommends that a minimum 30-year life span be used at this time. For those units where FPL has assumed life spans longer than 30 years, no party disagreed and neither does staff. In FPL's next depreciation study, the Company should provide specific information supporting a shorter life span, if it believes that to be appropriate.

No party disputed FPL's proposed life spans of 60 years for its nuclear units, except OPC believed that the life spans should match the actual license termination date of each unit. Staff agrees. Also, staff notes that no party disputed FPL's proposed life spans for its combustion turbines. Accordingly, staff believes they are appropriate.

2. Interim Retirements

OPC witness Pous agreed that interim retirements should be included in the calculation of production plant lives, but disagreed with FPL's approach in estimating interim retirements. (TR 1856) OPC proposed constant interim retirement rates based on a method sponsored by the California Public Utilities Commission³⁹ and recognized by the National Association of Regulatory Utility Commissioners (NARUC).⁴⁰ The witness explained that he developed interim retirement ratios based on actual FPL historical retirements for each production account. (EXH 115, pp. 406-429; EXH 185)

On the other hand, FPL contended that a constant interim retirement rate approach did not accurately estimate expected interim activity because the approach assumes a constant level of retirements throughout the group of investment's life rather than increased retirements as the property ages. (TR 2778-2780) Moreover, FPL asserted that OPC's interim retirement rates were only based on a single observed data point, rather than multiple data points as OPC claimed. (TR 2781-2783) FPL claimed that OPC's constant retirement rate calculation was mathematically incorrect and ignored later data points that have experienced higher levels of retirements. (TR 2783) Finally, FPL contended that a constant retirement rate assumed that future interim retirement activity will be the same as past retirement activity, which is unlikely. (TR 2784) FPL noted that things such as cap-and-trade legislation could require large investments in new technologies and lead to associated retirements to meet future regulatory requirements. (TR 2785)

Staff notes that the Commission previously found that a generating station, or a generating unit, can be looked at as a box containing an assortment of various types of assets which can be expected to experience varied lives.⁴¹ Prior to this current depreciation study, FPL utilized its mechanized property record system to provide in-depth stratified information for the assets in an account at a specific unit.⁴² The life of the account was then arrived at by compositing expectations of the various strata.

In the current study, FPL did not use a stratified approach in determining production plant lives, but rather used a curve-life combination to depict interim retirements. Staff believes that such an approach leads to much more subjectivity than the stratification approach. Also, staff believes that FPL's method of estimating interim retirements in its current depreciation study is not simpler than its previously used approach, especially given that the stratified information is contained in FPL's mechanized property record system. However, with any stratification, staff recognizes that the degree of disaggregation should be tempered by the associated costs.

Staff notes that both FPL's method and OPC's method of determining interim retirements are industry acceptable practices. (Clarke TR 2779) Staff agrees with FPL's criticism that

³⁹ Determination of Straight-Line Remaining Life Depreciation Accruals Standard Practice U-4.

⁴⁰ Public Utility Depreciation Practices.

⁴¹ Order No. PSC-99-0073-FOF-EI, issued January 8, 1999, in Docket No. 971660-EI, In re: 1997 depreciation study by Florida Power & Light Company, p. 4.

⁴² Stratification is the determination that a given account at a specific generating unit contains a certain amount of investment in such things as pumps, piping, rotors, or structures, with each strata expected to have a certain service life.

OPC's use of a constant retirement rate assumes that retirements in the future will mirror those of the past. However, it also appears that FPL based its selected life and curve combinations on a statistical analysis of historical data. (EXH 115, pp. 28-31; EXH 35, pp. 130885-131040) The evidence does not indicate how, if at all, future expectations were considered in FPL's curve selections.

Based on the record evidence presented, staff calculated a constant retirement rate based on the data provided in FPL's original observed data for each account. (EXH 35, pp. 130885-131040) Staff's recommended interim retirement rates to use in this proceeding are contained in Table 19C-1.

Table 19C-1: Staff Recommended Interim Retirement Rates	
Account	Interim Retirement Rate
Steam Production	
311 – Structures & Improvements	0.0032
312 – Boiler Plant Equipment	0.0094
314 – Turbogenerator Units	0.0120
315 – Accessory Electric Equipment	0.0052
316 – Misc. Power Plant Equipment	0.0071
Nuclear Production	
321 – Structures & Improvements	0.0028
322 – Reactor Plant Equipment	0.0056
323 – Turbogenerator Units	0.0138
324 – Accessory Electric Equipment	0.0012
325 – Misc. Power Plant Equipment	0.0032
Other Production	
341 – Structures & Improvements	0.0023
342 – Fuel Holders, Producers & Accessories	0.0095
343* - Prime Movers	0.0057
344 – Turbogenerator Units	0.0016
345 – Accessory Electric Equipment	0.0013
346 – Misc. Power Plant Equipment	0.0026

* An interim retirement rate of 0.1565 is recommended for capitalized spare parts.

Staff applied the interim retirement rate to the overall life span of the generating unit to determine an average service life and average remaining life. The average remaining lives are contained in Table 19C-3.

3. Interim Net Salvage

OPC witness Pous claimed that FPL's proposed interim net salvage parameters were excessively negative. (TR 1814) OPC witness Pous contended that FPL failed to determine whether any activity in any particular years of its analysis was representative of the remaining investment. (TR 1863) The witness proposed adjustments for two steam production accounts, two nuclear accounts, and five other production accounts. (TR 1863-1879)

In contrast to OPC's proposed interim net salvage proposals, FPL asserted that interim net salvage was developed for each account using a combination of historical data and informed judgment. (TR 2787) The Company averred that, because interim net salvage did not pertain to all of the property, it adjusted the net salvage percent based on the percentage of plant that will be retired as interim retirements. (TR 2787)

Account-Specific Net Salvage Analysis

Steam Production

Account 311 – Structures and Improvements

FPL's currently approved interim net salvage for this account is negative 9 percent. FPL proposed net salvage of negative 15 percent, adjusted to negative 5 percent for interim retirements. (EXH 115, pp. 438-439; TR 2789) Witness Clarke asserted that the historical data had averaged negative 15 percent with recent cost of removal increasing. (EXH 189, p. 61)

OPC proposed interim net salvage of negative 5 percent, reduced to zero for interim retirements. (OPC BR 30; TR 1864) Witness Pous contended that FPL ignored recent activity indicating about negative 10 percent net salvage to a positive net salvage. (TR 1864) Additionally, he noted that a disproportionate share of the historical retirements in this account have been piping, and replacement of a retaining wall and a cooling pond underdrain system, that may not be indicative of the future. Because piping comprised only 16 percent of the account's investment, the OPC witness asserted that it was given too much weight in FPL's analysis.

Based on the evidence, staff believes a negative 10 percent net salvage is reasonable. Adjusted for interim retirements, staff recommends an interim net salvage of negative 2 percent.

Account 312 – Boiler Plant Equipment

The currently approved interim net salvage for this account is negative 6 percent. FPL asserted that cost of removal had increased over the past few years indicating the need to increase the negative net salvage. Historical salvage data for the 1986-2007 period averaged negative 27 percent, with the 2005-2007 band averaging negative 15 percent. The Company proposed a net salvage of negative 15 percent, adjusted to negative 11 percent for interim retirements. (EXH 189, p. 61) Staff believes the Company's net salvage proposal is reasonable. However, based on staff's recommended interim retirement rates, an adjusted interim net salvage of negative 7 percent is recommended.

Account 314 – Turbogenerator Units

FPL's currently approved interim net salvage for this account is negative 6 percent. FPL proposed an interim net salvage of zero, noting that salvage data had been erratic. (EXH 189, pp. 61-62)

OPC proposed positive 10 percent net salvage, adjusted to 1.67 percent for interim retirements. (TR 1866) OPC contended that FPL's approach to this account was inconsistent with its approach in other accounts because it did not recognize that this account has historically

averaged 8 percent positive net salvage, or that the five-year band of data reflected positive 9 percent. (TR 1866-1867)

Salvage activity has historically averaged positive 8 percent. The most recent two-year band averaged negative 11 percent. (EXH 115, pp. 442-443) Staff agrees with FPL that the data is erratic. Net salvage has ranged from negative 264 percent to positive 218 percent. Staff believes that such wide variances do not indicate a consistent pattern. For this reason, staff recommends zero interim net salvage.

Account 315 – Accessory Electric Equipment

The currently approved interim net salvage for this account is negative 6 percent. FPL proposed increasing the negative net salvage to negative 20 percent to recognize increased costs of removal. The five-year band of salvage data averaged negative 28 percent with a number of years over 30 percent. Adjusted for interim retirements, FPL proposed negative 12 percent net salvage. (EXH 189, p. 62) OPC did not address FPL's proposal.

Net salvage has historically averaged negative 19 percent, with the most recent three-year and four-year bands average negative 28 percent. (EXH 115, pp. 444-445) Staff believes FPL's proposed net salvage is reasonable. Adjusted for interim retirements, staff recommends a negative 6 percent net salvage.

Account 316 – Miscellaneous Equipment

The currently approved interim net salvage for this account is zero percent. FPL noted that while the net salvage amounts were not large, cost of removal tended to be greater than realized gross salvage. Accordingly, FPL proposed negative 5 percent net salvage, adjusted to negative 4 percent for interim retirements. OPC did not address FPL's net salvage proposal for this account.

Historically, net salvage for this account has averaged negative 5 percent with the most recent five years average negative 8 percent. (EXH 115, pp. 446-447) Staff believes this account has not experienced sufficient retirements on which to rely. For this reason, staff believes the currently approved zero net salvage should remain.

Nuclear Production

Account 321 – Structures and Improvements

The currently approved interim net salvage for this account is negative 1 percent. Historically, net salvage averaged positive 8 percent, with some years being positive and some years being negative. FPL proposed a zero net salvage based on the erratic behavior of the data. (EXH 115, pp. 448-449; EXH 189, p. 62) OPC did not address FPL's proposal. Based on the account activity, staff believes the Company's proposed net salvage is reasonable.

Account 322 – Reactor Plant Equipment

The currently approved interim net salvage for this account is negative 2 percent. FPL proposed net salvage of negative 5 percent, adjusted to negative 4 percent for interim retirements. (EXH 189, p. 63)

OPC proposed retaining the current negative 2 percent interim net salvage. OPC explained that FPL recognized that the currently-approved interim net salvage appeared justified, absent recent years in which there were some large retirements that distorted the activity. Nonetheless, the Company proposed an increase in the interim net salvage until more data was available. OPC contended that FPL's reasoning for its proposed net salvage was inconsistent with its approach in other accounts that also indicated positive net salvage, where FPL selected zero until a pattern was established. (TR 1868-1869)

Historically, net salvage has averaged negative 11 percent with recent years being more negative, in part due to the retirements associated with the uprate project. Discounting those years, net salvage has averaged slightly negative. (EXH 115, pp. 450-451) Based on the record evidence, staff hesitates in recommending a higher negative net salvage. Staff therefore recommends the currently-approved net salvage of negative 2 percent should be retained.

Account 323 – Turbogenerator Units

The currently approved interim net salvage is negative 4 percent. FPL proposed a zero percent net salvage. The Company explained that the historical data showed positive net salvage in some years and negative net salvage in other years. Large retirements in recent years realized both high gross salvage and high removal costs. Until it is determined whether this type of activity will continue, FPL proposed zero percent net salvage. (EXH 189, p. 63)

Staff notes that OPC did not address FPL's proposal. Based on the data for this account, staff believes that FPL's proposal is reasonable.

Account 324 – Accessory Electric Equipment

The currently approved interim net salvage for this account is negative 2 percent. FPL proposed increasing net salvage to negative 20 percent, adjusted to negative 18 percent for interim retirements. The Company stated that retirements had been fairly consistent with cost of removal always exceeding gross salvage. Historical data averaged negative 19 percent with the past five years of net salvage data averaging negative 41 percent. (EXH 189, p. 63)

OPC proposed negative 2 percent negative net salvage, adjusted to negative 0.06 percent for interim retirements. OPC asserted that the most recent five-year band of data represented less than 1 percent of retirement activity, rendering the results meaningless. (TR 1879) Staff agrees and believes there is no need to change the currently approved interim net salvage of negative 2 percent at this time.

Account 325 – Miscellaneous Power Plant Equipment

The currently approved net salvage for this account is negative 1 percent. FPL proposed zero interim net salvage based on the fact that historical data indicated positive net salvage with

only the past couple of years showing cost of removal exceeding gross salvage. (EXH 189, p. 63; EXH 115, pp. 456-457)

OPC did not address FPL's proposal for this account. Based on the record evidence, staff believes FPL's proposal is reasonable.

Other Production

Account 341 – Structures & Improvements

The currently approved interim net salvage for this account is negative 2 percent. FPL proposed increasing net salvage to negative 25 percent to reflect increasing removal costs. Adjusting for interim retirements, a negative 12 percent interim net salvage resulted. (EXH 189, p. 64)

OPC proposed interim net salvage of zero. OPC asserted that while FPL recognized increased removal costs, it discounted the 2007 positive net salvage as an anomaly without any investigation. (TR 1872-1873)

Historical net salvage for this account has averaged negative 20 percent, with the most recent five-year band averaging positive 9 percent. Staff notes that there is no indication from FPL why the removal costs incurred in 2005 should not be considered an anomaly. Staff recommends retaining the negative 2 percent interim net salvage for this account until more data is available.

Account 342 – Other Production Fuel Holders

The currently approved interim net salvage for this account is zero percent. FPL proposed interim net salvage of negative 5 percent to reflect increased removal costs. Adjusting for interim retirements resulted in negative 3 percent interim net salvage. The Company asserted that the account retirements have been erratic. However, when retirements have occurred, cost of removal with little gross salvage was experienced. (EXH 189, p. 64)

OPC proposed interim net salvage of zero. OPC viewed FPL's proposal as unwarranted given the lack of retirement data. (TR 1873-1874)

Based on the record evidence, this account shows insufficient retirements upon which to draw a meaningful conclusion. Staff therefore recommends retaining the currently approved zero percent interim net salvage.

Account 343 – Other Production Prime Movers –

The currently approved interim net salvage for this account is zero. FPL proposed interim net salvage of negative 10 percent adjusted to negative 2 percent for interim retirements. FPL asserted that historical net salvage averaged negative 24 percent, with the most recent five years averaging negative 14 percent. The Company averred that this data warranted an increase in negative net salvage. (EXH 189, p. 64)

OPC proposed interim net salvage of zero. OPC asserted that FPL's data included two large negative gross salvage amounts. This data caused the historical information to be excessively negative and produced illogical results. OPC averred that if this data is removed as an anomaly, there is no basis for changing the currently approved interim net salvage. (TR 1874-1875)

Staff agrees with OPC that negative gross salvage amounts are illogical. Staff also agrees with FPL that even ignoring these amounts, net salvage has been negative. Staff notes that FPL proposed zero net salvage in its 2005 depreciation study when the data showed negative net salvage. Staff is therefore hard pressed in recommending a net salvage more negative when nothing has essentially changed since the 2005 depreciation analysis. Staff therefore recommends retaining the currently prescribed zero percent interim net salvage.

Account 344 – Other Production Generators

The currently approved interim net salvage for this account is negative 1 percent. FPL proposed a negative 100 percent net salvage based on the most recent five years of data, adjusted to negative 11 percent for interim retirements. (EXH 189, p. 64)

OPC proposed zero net salvage. OPC asserted that FPL had not adequately explained or supported its proposal. (TR 1876-1877)

Historical net salvage has averaged negative 98 percent, with the most recent five years of data averaging negative net salvage in excess of 100 percent. Staff notes that retirements during the past five years account for more than 60 percent of all retirements recorded during the 1987-2007 period. Staff also notes that until the last five years, cost of removal as well as retirements had generally been negligible. FPL did not explain what caused the sudden increase in activity, so staff is unable to verify if its proposed net salvage is appropriate. Under the circumstances, staff recommends retaining the currently approved interim net salvage of negative 1 percent.

Account 345 – Other Production Accessory Electric Equipment

The currently approved interim net salvage for this account is negative 1 percent. FPL proposed increasing net salvage to negative 10 percent, adjusted to negative 3 percent for interim retirements. The Company states that its proposal is in line with the historical net salvage experience of the account. (EXH 189, pp. 64-65)

OPC proposed zero percent interim net salvage. OPC asserted that the retirement activity during the past five years represented less than 0.4 percent of the account's investment, and 79 percent of that activity was associated with items such as batteries and battery chargers that represented less than 5 percent of the account's investment. Thus, OPC contended that FPL's proposed interim negative net salvage was overstated. (TR 1878-1879)

Historical net salvage has averaged negative 7 percent with the most recent five-year band of data averaging negative 14 percent. Staff notes that FPL contended that OPC's argument was flawed because the account's retirements reflect the types of property that will likely be retired intermly and not necessarily the same investment mix. (TR 2796) However,

FPL did not explain other types of investments subject to interim retirement or the type of salvage they were likely to incur. It is difficult to assume that past activity is indicative of the future if the past is not representative of the type of activity being estimated. For this reason, staff recommends retaining the currently prescribed negative 1 percent interim net salvage.

Account 346 – Miscellaneous Power Plant Equipment

The currently approved interim net salvage is zero percent, which FPL proposed retaining. Historical net salvage as well as the most recent five years of data have averaged negative 2 percent. Retirements have been minimal. (EXH 189, p. 65) Based on the record evidence, staff believes FPL's proposal is reasonable.

4. Amortizations

In accord with Rule 25-6.0142, F.A.C., FPL amortizes investments in the miscellaneous power plant accounts that represent minor investments of numerous items that are too numerous to track or trace. Each vintage year's additions associated with each account is amortized over a like period of time. FPL proposed no change to these amortizations and none of the intervenors disputed them.

CONCLUSION

Staff's recommended depreciation parameters and resulting depreciation rates for production plant are shown on Table 19C-2. The reserve positions shown incorporate the effects of the staff recommended reserve allocations addressed in Issue 19F. The resultant test year depreciation expenses based on the staff recommendation in this issue and in Issue 19D are addressed in Issue 131.

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
CUTLER PLANT							
Cutler Common							
311.0 Structures & Improvements	5.00	(9.00)	-0.2	10.3	(2.00)	84.49	1.7
312.0 Boiler Plant Equipment	5.30	(6.00)	0.5	9.9	(7.00)	85.38	2.2
314.0 Turbogenerator Units	5.50	(2.00)	-3.1	9.8	0.00	78.22	2.2
315.0 Accessory Electric Equip.	5.20	(6.00)	0.5	10.2	(6.00)	86.69	1.9
316.0 Misc. Power Plant Equip.	5.20	0.00	-1.9	10.1	0.00	80.94	1.9
Cutler Unit 5							
311.0 Structures & Improvements	5.50	(9.00)	1.0	10.3	(2.00)	84.49	1.7
312.0 Boiler Plant Equipment	5.00	(6.00)	-0.4	9.9	(7.00)	85.38	2.2
314.0 Turbogenerator Units	5.20	(2.00)	-1.2	9.8	0.00	78.22	2.2
315.0 Accessory Electric Equip.	5.10	(6.00)	0.2	10.2	(6.00)	86.69	1.9
316.0 Misc. Power Plant Equip.	4.50	0.00	0.0	10.1	0.00	80.94	1.9
Cutler Unit 6							
311.0 Structures & Improvements	5.50	(9.00)	1.3	10.3	(2.00)	84.49	1.7
312.0 Boiler Plant Equipment	5.30	(6.00)	1.0	9.9	(7.00)	85.38	2.2
314.0 Turbogenerator Units	5.40	(2.00)	0.7	9.8	0.00	78.22	2.2
315.0 Accessory Electric Equip.	5.10	(6.00)	0.8	10.2	(6.00)	86.69	1.9
316.0 Misc. Power Plant Equip.	4.80	0.00	0.6	10.1	0.00	80.94	1.9

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
MANATEE PLANT							
Manatee Common							
311.0 Structures & Improvements	5.30	(9.00)	4.9	17	(1.00)	64.47	2.1
312.0 Boiler Plant Equipment	6.50	(6.00)	14.1	16.1	(2.00)	60.95	2.6
314.0 Turbogenerator Units	6.40	(2.00)	0.4	15.7	0.00	58.68	2.6
315.0 Accessory Electric Equip.	6.30	(6.00)	3.7	16.7	(5.00)	65.15	2.4
316.0 Misc. Power Plant Equip.	4.40	0.00	6.0	16.4	(1.00)	61.56	2.4
Manatee Unit 1							
311.0 Structures & Improvements	6.40	(9.00)	4.1	17	(1.00)	64.47	2.1
312.0 Boiler Plant Equipment	5.80	(6.00)	4.8	16.1	(2.00)	60.95	2.6
314.0 Turbogenerator Units	6.30	(2.00)	3.7	15.7	0.00	58.68	2.6
315.0 Accessory Electric Equip.	6.50	(6.00)	3.6	16.7	(5.00)	65.15	2.4
316.0 Misc. Power Plant Equip.	6.30	0.00	2.7	16.4	(1.00)	61.56	2.4
Manatee Unit 2							
311.0 Structures & Improvements	6.40	(9.00)	4.1	17	(1.00)	64.47	2.1
312.0 Boiler Plant Equipment	5.80	(6.00)	4.0	16.1	(2.00)	60.95	2.6
314.0 Turbogenerator Units	6.30	(2.00)	3.0	15.7	0.00	58.68	2.6
315.0 Accessory Electric Equip.	6.50	(6.00)	3.6	16.7	(5.00)	65.15	2.4
316.0 Misc. Power Plant Equip.	6.50	0.00	2.6	16.4	(1.00)	61.56	2.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
MARTIN PLANT							
Martin Common							
311.0 Structures & Improvements	8.70	(9.00)	1.7	21	(1.00)	55.87	2.1
312.0 Boiler Plant Equipment	2.80	(6.00)	4.1	19.4	(5.00)	54.08	2.6
314.0 Turbogenerator Units	9.50	(2.00)	0.8	18.8	0.00	50.53	2.6
315.0 Accessory Electric Equip.	9.00	(6.00)	1.3	20	(5.00)	57.27	2.4
316.0 Misc. Power Plant Equip.	6.60	0.00	3.2	19.9	0.00	52.62	2.4
Martin Pipeline							
312.0 Boiler Plant Equipment	0.00	0.00	0.0	19.4	(5.00)	54.08	2.6
Martin Unit 1							
311.0 Structures & Improvements	9.40	(9.00)	1.5	21	(1.00)	55.87	2.1
312.0 Boiler Plant Equipment	8.30	(6.00)	1.8	19.4	(5.00)	54.08	2.6
314.0 Turbogenerator Units	9.20	(2.00)	1.3	18.8	0.00	50.53	2.6
315.0 Accessory Electric Equip.	9.20	(6.00)	1.3	20	(5.00)	57.27	2.4
316.0 Misc. Power Plant Equip.	8.60	0.00	0.6	19.9	0.00	52.62	2.4
Martin Unit 2							
311.0 Structures & Improvements	9.40	(9.00)	1.5	21	(1.00)	55.87	2.1
312.0 Boiler Plant Equipment	7.60	(6.00)	1.5	19.4	(5.00)	54.08	2.6
314.0 Turbogenerator Units	9.00	(2.00)	0.8	18.8	0.00	50.53	2.6
315.0 Accessory Electric Equip.	7.80	(6.00)	1.5	20	(5.00)	57.27	2.4
316.0 Misc. Power Plant Equip.	7.60	0.00	0.7	19.9	0.00	52.62	2.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
PT EVERGLADES PLANT							
Pt Everglades Common							
311.0 Structures & Improvements	5.40	(9.00)	2.7	10.3	(2.00)	82.90	1.9
312.0 Boiler Plant Equipment	5.30	(6.00)	2.2	9.9	(6.00)	83.19	2.3
314.0 Turbogenerator Units	5.50	(2.00)	1.4	9.8	0.00	77.21	2.3
315.0 Accessory Electric Equip.	5.20	(6.00)	2.3	10.2	(5.00)	84.40	2.0
316.0 Misc. Power Plant Equip.	4.50	0.00	1.3	10.1	(2.00)	80.98	2.1
Pt Everglades Unit 1							
311.0 Structures & Improvements	5.50	(9.00)	2.6	10.3	(2.00)	82.90	1.9
312.0 Boiler Plant Equipment	4.90	(6.00)	6.7	9.9	(6.00)	83.19	2.3
314.0 Turbogenerator Units	5.50	(2.00)	1.4	9.8	0.00	77.21	2.3
315.0 Accessory Electric Equip.	5.50	(6.00)	2.0	10.2	(5.00)	84.40	2.0
316.0 Misc. Power Plant Equip.	5.50	0.00	1.0	10.1	(2.00)	80.98	2.1
Pt Everglades Unit 2							
311.0 Structures & Improvements	5.50	(9.00)	2.6	10.3	(2.00)	82.90	1.9
312.0 Boiler Plant Equipment	5.10	(6.00)	6.1	9.9	(6.00)	83.19	2.3
314.0 Turbogenerator Units	5.00	(2.00)	1.5	9.8	0.00	77.21	2.3
315.0 Accessory Electric Equip.	5.50	(6.00)	2.1	10.2	(5.00)	84.40	2.0
316.0 Misc. Power Plant Equip.	3.20	0.00	1.7	10.1	(2.00)	80.98	2.1
Pt Everglades Unit 3							
311.0 Structures & Improvements	5.50	(9.00)	2.6	10.3	(2.00)	82.90	1.9
312.0 Boiler Plant Equipment	5.20	(6.00)	4.0	9.9	(6.00)	83.19	2.3
314.0 Turbogenerator Units	5.10	(2.00)	1.5	9.8	0.00	77.21	2.3
315.0 Accessory Electric Equip.	5.20	(6.00)	2.2	10.2	(5.00)	84.40	2.0
316.0 Misc. Power Plant Equip.	5.50	0.00	1.0	10.1	(2.00)	80.98	2.1
Pt Everglades Unit 4							
311.0 Structures & Improvements	5.50	(9.00)	2.6	10.3	(2.00)	82.90	1.9
312.0 Boiler Plant Equipment	5.30	(6.00)	3.6	9.9	(6.00)	83.19	2.3
314.0 Turbogenerator Units	5.50	(2.00)	1.4	9.8	0.00	77.21	2.3
315.0 Accessory Electric Equip.	5.40	(6.00)	2.1	10.2	(5.00)	84.40	2.0
316.0 Misc. Power Plant Equip.	4.10	0.00	1.3	10.1	(2.00)	80.98	2.1

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
<u>SANFORD PLANT</u>							
Sanford Unit 3							
311.0 Structures & Improvements	5.50	(9.00)	4.0	10.3	(2.00)	82.54	1.9
312.0 Boiler Plant Equipment	5.30	(6.00)	3.6	9.9	(6.00)	82.68	2.4
314.0 Turbogenerator Units	5.40	(2.00)	2.8	9.8	0.00	76.67	2.4
315.0 Accessory Electric Equip.	5.40	(6.00)	3.5	10.2	(5.00)	84.00	2.1
316.0 Misc. Power Plant Equip.	5.50	0.00	2.3	10.1	(2.00)	80.54	2.1

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
SCHERER PLANT							
Scherer Coal Cars							
312.0 Boiler Plant Equipment	4.50	0.00	7.0	26	(5.00)	36.75	2.6
Scherer Common (Site)							
311.0 Structures & Improvements	19.80	(9.00)	1.6	28	(1.00)	40.83	2.1
312.0 Boiler Plant Equipment	16.70	(6.00)	1.6	26	(5.00)	36.75	2.6
314.0 Turbogenerator Units	23.00	(2.00)	1.0	25	0.00	34.21	2.6
315.0 Accessory Electric Equip.	22.00	(6.00)	1.3	27	(4.00)	40.18	2.4
316.0 Misc. Power Plant Equip.	21.00	0.00	1.0	27	(1.00)	36.07	2.4
Scherer Common 3 & 4							
311.0 Structures & Improvements	15.10	(9.00)	1.9	28	(1.00)	41.23	2.2
312.0 Boiler Plant Equipment	20.00	(6.00)	1.8	26	(5.00)	37.10	2.7
314.0 Turbogenerator Units	19.90	(2.00)	0.9	25	0.00	34.21	2.6
315.0 Accessory Electric Equip.	24.00	(6.00)	1.1	27	(4.00)	40.57	2.4
Scherer Unit 4							
311.0 Structures & Improvements	21.00	(9.00)	2.2	28	(1.00)	40.83	2.1
312.0 Boiler Plant Equipment	20.00	(6.00)	1.9	26	(5.00)	36.75	2.6
314.0 Turbogenerator Units	23.00	(2.00)	1.5	25	0.00	34.21	2.6
315.0 Accessory Electric Equip.	12.60	(6.00)	2.3	27	(4.00)	40.18	2.4
316.0 Misc. Power Plant Equip.	13.70	0.00	1.8	27	(1.00)	36.07	2.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
<u>SJRPP PLANT</u>							
SJRPP Coal Cars							
312.0 Boiler Plant Equipment	0.00	0.00	0.0	26	(5.00)	36.75	2.6
SJRPP Coal & Limestone							
311.0 Structures & Improvements	21.00	(9.00)	2.7	28	(1.00)	40.83	2.1
312.0 Boiler Plant Equipment	18.20	(6.00)	2.5	26	(5.00)	36.75	2.6
315.0 Accessory Electric Equip.	19.40	(6.00)	1.6	27	(4.00)	40.18	2.4
316.0 Misc. Power Plant Equip.	21.00	0.00	1.0	27	(1.00)	36.07	2.4
SJRPP Common							
311.0 Structures & Improvements	15.70	(9.00)	3.1	27	(1.00)	42.98	2.1
312.0 Boiler Plant Equipment	22.00	(6.00)	2.0	25	(5.00)	39.38	2.6
315.0 Accessory Electric Equip.	22.00	(6.00)	1.3	26	(4.00)	42.55	2.4
316.0 Misc. Power Plant Equip.	15.70	0.00	0.6	26	(1.00)	38.48	2.4
SJRPP Gypsum & Ash							
311.0 Structures & Improvements	15.30	(9.00)	3.4	27	(1.00)	42.98	2.1
312.0 Boiler Plant Equipment	22.00	(6.00)	0.9	25	(5.00)	39.38	2.6
314.0 Turbogenerator Units		0.00	0.0		0.00	36.84	2.6
315.0 Accessory Electric Equip.	23.00	(6.00)	2.4	26	(4.00)	42.55	2.4
316.0 Misc. Power Plant Equip.	23.00	0.00	1.4	26	(1.00)	38.48	2.4
SJRPP Unit 1							
311.0 Structures & Improvements	21.00	(9.00)	2.4	27	(1.00)	42.98	2.1
312.0 Boiler Plant Equipment	16.20	(6.00)	2.2	25	(5.00)	39.38	2.6
314.0 Turbogenerator Units	16.30	(2.00)	2.4	24	0.00	36.84	2.6
315.0 Accessory Electric Equip.	15.80	(6.00)	1.6	26	(4.00)	42.55	2.4
316.0 Misc. Power Plant Equip.	17.30	0.00	2.4	26	(1.00)	38.48	2.4

Date: December 23, 2009

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
<u>TURKEY POINT PLANT</u>							
Turkey Point Common							
311.0 Structures & Improvements	6.80	(9.00)	2.3	10.3	(2.00)	80.56	2.1
312.0 Boiler Plant Equipment	6.10	(6.00)	2.1	9.9	(6.00)	81.01	2.5
314.0 Turbogenerator Units	7.40	(2.00)	1.2	9.8	0.00	74.87	2.6
315.0 Accessory Electric Equip.	6.20	(6.00)	2.1	10.2	(5.00)	82.21	2.2
316.0 Misc.Power Plant Equip.	7.00	0.00	1.0	10.1	(2.00)	78.59	2.3
Turkey Point Unit 1							
311.0 Structures & Improvements	6.40	(9.00)	2.5	10.3	(2.00)	80.56	2.1
312.0 Boiler Plant Equipment	6.40	(6.00)	2.0	9.9	(6.00)	81.01	2.5
314.0 Turbogenerator Units	6.10	(2.00)	1.4	9.8	0.00	74.87	2.6
315.0 Accessory Electric Equip.	5.90	(6.00)	2.2	10.2	(5.00)	82.21	2.2
316.0 Misc.Power Plant Equip.	6.50	0.00	1.0	10.1	(2.00)	78.59	2.3
Turkey Point Unit 2							
311.0 Structures & Improvements	7.40	(9.00)	2.1	10.3	(2.00)	80.56	2.1
312.0 Boiler Plant Equipment	7.00	(6.00)	1.8	9.9	(6.00)	81.01	2.5
314.0 Turbogenerator Units	7.20	(2.00)	1.2	9.8	0.00	74.87	2.6
315.0 Accessory Electric Equip.	6.70	(6.00)	1.9	10.2	(5.00)	82.21	2.2
316.0 Misc.Power Plant Equip.	7.50	0.00	0.9	10.1	(2.00)	78.59	2.3

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
ST LUCIE PLANT							
St Lucie Common							
321.0 Structures & Improvements	25.00	(1.00)	1.4	32	0.00	42.86	1.8
322.0 Reactor Plant Equipment	9.90	(2.00)	3.1	30	(2.00)	42.00	2.0
323.0 Turbogenerator Units	4.90	(4.00)	6.4	27	0.00	34.15	2.4
315.0 Accessory Electric Equip.	30.00	(2.00)	1.2	33	(2.00)	43.97	1.8
316.0 Misc.Power Plant Equip.	23.00	(1.00)	2.5	32	0.00	41.82	1.8
St Lucie Unit 1							
321.0 Structures & Improvements	28.00	(1.00)	1.1	26	0.00	53.57	1.8
322.0 Reactor Plant Equipment	22.00	(2.00)	1.8	25	(2.00)	52.00	2.0
323.0 Turbogenerator Units	17.80	(4.00)	1.2	22	0.00	46.34	2.4
315.0 Accessory Electric Equip.	23.00	(2.00)	1.7	26	(2.00)	56.28	1.8
316.0 Misc.Power Plant Equip.	24.00	(1.00)	1.0	25	0.00	54.55	1.8
St Lucie Unit 2							
321.0 Structures & Improvements	31.00	(1.00)	1.0	32	0.00	42.86	1.8
322.0 Reactor Plant Equipment	27.00	(2.00)	1.1	30	(2.00)	42.00	2.0
323.0 Turbogenerator Units	14.70	(4.00)	1.9	27	0.00	34.15	2.4
315.0 Accessory Electric Equip.	28.00	(2.00)	1.6	33	(2.00)	43.97	1.8
316.0 Misc.Power Plant Equip.	31.00	(1.00)	1.3	32	0.00	41.82	1.8

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
<u>TURKEY POINT PLANT</u>							
Turkey Point Common							
321.0 Structures & Improvements	22.00	(1.00)	1.1	23	0.00	58.93	1.8
322.0 Reactor Plant Equipment	11.00	(2.00)	1.5	22	(2.00)	58.00	2.0
323.0 Turbogenerator Units	17.60	(4.00)	1.4	19.9	0.00	51.46	2.4
315.0 Accessory Electric Equip.	25.00	(2.00)	0.9	23	(2.00)	61.55	1.8
316.0 Misc.Power Plant Equip.	13.60	(1.00)	1.2	23	0.00	58.18	1.8
Turkey Point Unit 3							
321.0 Structures & Improvements	25.00	(1.00)	0.8	23	0.00	58.93	1.8
322.0 Reactor Plant Equipment	18.20	(2.00)	1.3	22	(2.00)	58.00	2.0
323.0 Turbogenerator Units	13.50	(4.00)	1.5	19.9	0.00	51.46	2.4
315.0 Accessory Electric Equip.	22.00	(2.00)	1.0	23	(2.00)	61.55	1.8
316.0 Misc.Power Plant Equip.	12.90	(1.00)	1.4	23	0.00	58.18	1.8
Turkey Point Unit 4							
321.0 Structures & Improvements	26.00	(1.00)	0.8	23	0.00	58.93	1.8
322.0 Reactor Plant Equipment	18.40	(2.00)	1.5	22	(2.00)	58.00	2.0
323.0 Turbogenerator Units	9.90	(4.00)	1.9	19.9	0.00	51.46	2.4
315.0 Accessory Electric Equip.	21.00	(2.00)	1.0	23	(2.00)	61.55	1.8
316.0 Misc.Power Plant Equip.	10.40	(1.00)	1.7	23	0.00	58.18	1.8

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
FT MYERS PLANT							
Ft Myers Common							
341.0 Structures & Improvements	21.50	(2.00)	3.5	23	(2.00)	21.10	3.5
342.0 Fuel Holders, Prod. & Access.	21.50	0.00	3.4	21	0.00	19.23	3.8
343.0 Prime Movers	14.50	0.00	5.1	13.9	0.00	18.71	5.8
344.0 Turbogenerator Units	21.50	(1.00)	3.5	23	(1.00)	23.57	3.4
345.0 Accessory Electric Equipment	16.60	(1.00)	4.5	23	(1.00)	23.57	3.4
346.0 Misc. Power Plant Equipment	21.50	0.00	3.4	23	0.00	20.69	3.4
Ft Myers Unit 2							
341.0 Structures & Improvements	21.50	(2.00)	3.5	22	(2.00)	24.62	3.5
342.0 Fuel Holders, Prod. & Access.	21.50	0.00	3.8	20	0.00	23.08	3.8
343.0 Prime Movers	14.50	0.00	5.5	18	0.00	25.00	4.2
344.0 Turbogenerator Units	21.50	(1.00)	4.0	22	(1.00)	26.93	3.4
345.0 Accessory Electric Equipment	16.60	(1.00)	4.6	22	(1.00)	26.93	3.4
346.0 Misc. Power Plant Equipment	21.50	0.00	3.3	22	0.00	24.14	3.4
Ft Myers Unit 3 (Simple Cycle)							
341.0 Structures & Improvements	22.50	(2.00)	4.3	23	(2.00)	21.10	3.5
342.0 Fuel Holders, Prod. & Access.	22.50	0.00	3.9	21	0.00	19.23	3.8
343.0 Prime Movers	15.50	0.00	5.6	15.5	0.00	18.85	5.2
344.0 Turbogenerator Units	22.50	(1.00)	4.1	23	(1.00)	23.57	3.4
345.0 Accessory Electric Equipment	17.60	(1.00)	4.8	23	(1.00)	23.57	3.4
346.0 Misc. Power Plant Equipment	22.50	0.00	3.8	23	0.00	20.69	3.4
Ft Myers GTs							
341.0 Structures & Improvements	5.50	(2.00)	2.1	10.4	(2.00)	77.89	2.3
342.0 Fuel Holders, Prod. & Access.	5.20	0.00	5.0	9.9	0.00	73.24	2.7
343.0 Prime Movers	5.50	0.00	3.1	8.7	0.00	72.81	3.1
344.0 Turbogenerator Units	5.40	(1.00)	1.9	10.4	(1.00)	77.66	2.2
345.0 Accessory Electric Equipment	5.50	(1.00)	2.9	10.4	(1.00)	77.66	2.2
346.0 Misc. Power Plant Equipment	4.30	0.00	2.0	10.3	0.00	76.59	2.3

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
LAUDERDALE PLANT							
Lauderdale Common							
341.0 Structures & Improvements	11.40	(2.00)	4.1	13.3	(2.00)	55.22	3.5
342.0 Fuel Holders, Prod. & Access.	12.40	0.00	4.4	12.6	0.00	51.54	3.8
343.0 Prime Movers	12.50	0.00	1.8	8.9	0.00	47.02	6.0
344.0 Turbogenerator Units	12.50	(1.00)	3.5	13.3	(1.00)	56.22	3.4
345.0 Accessory Electric Equipment	12.40	(1.00)	4.1	13.4	(1.00)	55.89	3.4
346.0 Misc. Power Plant Equipment	12.50	0.00	2.3	13.2	0.00	54.48	3.4
Lauderdale Unit 4							
341.0 Structures & Improvements	12.40	(2.00)	1.7	13.3	(2.00)	55.22	3.5
342.0 Fuel Holders, Prod. & Access.	12.40	0.00	4.4	12.6	0.00	51.54	3.8
343.0 Prime Movers	9.40	0.00	5.0	11.2	0.00	51.30	4.3
344.0 Turbogenerator Units	12.40	(1.00)	4.9	13.3	(1.00)	56.22	3.4
345.0 Accessory Electric Equipment	11.50	(1.00)	4.0	13.4	(1.00)	55.89	3.4
346.0 Misc. Power Plant Equipment	12.50	0.00	1.1	13.2	0.00	54.48	3.4
Lauderdale Unit 5							
341.0 Structures & Improvements	12.30	(2.00)	3.0	13.3	(2.00)	55.22	3.5
342.0 Fuel Holders, Prod. & Access.	12.50	0.00	4.7	12.6	0.00	51.54	3.8
343.0 Prime Movers	8.90	0.00	3.7	11.5	0.00	52.08	4.2
344.0 Turbogenerator Units	12.40	(1.00)	3.9	13.3	(1.00)	56.22	3.4
345.0 Accessory Electric Equipment	11.60	(1.00)	3.8	13.4	(1.00)	55.89	3.4
346.0 Misc. Power Plant Equipment	12.50	0.00	1.1	13.2	0.00	54.48	3.4
Lauderdale GTs							
341.0 Structures & Improvements	5.50	(2.00)	2.2	10.4	(2.00)	79.43	2.2
342.0 Fuel Holders, Prod. & Access.	5.50	0.00	4.5	9.9	0.00	74.62	2.6
343.0 Prime Movers	5.50	0.00	2.2	8.9	0.00	73.82	2.9
344.0 Turbogenerator Units	5.40	(1.00)	1.1	10.4	(1.00)	79.12	2.1
345.0 Accessory Electric Equipment	5.40	(1.00)	1.1	10.4	(1.00)	79.12	2.1
346.0 Misc. Power Plant Equipment	5.40	0.00	0.6	10.3	0.00	77.61	2.2

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
Pt Everglades GTs							
341.0 Structures & Improvements	5.50	(2.00)	1.5	10.4	(2.00)	79.43	2.2
342.0 Fuel Holders, Prod. & Access.	5.50	0.00	5.1	9.9	0.00	74.62	2.6
343.0 Prime Movers	5.50	0.00	2.6	8.2	0.00	71.72	3.4
344.0 Turbogenerator Units	5.50	(1.00)	1.6	10.4	(1.00)	79.12	2.1
345.0 Accessory Electric Equipment	4.30	(1.00)	0.6	10.4	(1.00)	79.12	2.1
346.0 Misc. Power Plant Equipment	1.40	0.00	-1.8	10.3	0.00	77.61	2.2
MANATEE PLANT							
Manatee Unit 3							
341.0 Structures & Improvements	25.00	(4.00)	4.2	25	(2.00)	14.07	3.5
342.0 Fuel Holders, Prod. & Access.	21.00	0.00	4.8	23	0.00	11.54	3.8
343.0 Prime Movers	18.50	(2.00)	5.5	20	0.00	13.04	4.3
344.0 Turbogenerator Units	25.00	0.00	4.0	25	(1.00)	16.83	3.4
345.0 Accessory Electric Equipment	14.50	(1.00)	7.0	25	(1.00)	16.83	3.4
346.0 Misc. Power Plant Equipment	15.00	0.00	6.7	25	0.00	13.79	3.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
MARTIN PLANT							
Martin Common							
341.0 Structures & Improvements	12.50	(2.00)	3.4	14.2	(2.00)	52.06	3.5
342.0 Fuel Holders, Prod. & Access.	13.50	0.00	3.8	13.5	0.00	48.08	3.8
343.0 Prime Movers	13.30	0.00	3.5	12.0	0.00	47.83	4.3
345.0 Accessory Electric Equipment	12.90	(1.00)	3.8	14.4	(1.00)	52.52	3.4
346.0 Misc. Power Plant Equipment	13.50	0.00	1.0	14.2	0.00	51.03	3.4
Martin Pipeline							
342.0 Fuel Holders, Producers & Access.	0.00	0.00	0.0	13.5	0.00	48.08	3.8
Martin Unit 3							
341.0 Structures & Improvements	13.40	(2.00)	4.0	14.2	(2.00)	52.06	3.5
342.0 Fuel Holders, Prod. & Access.	12.70	0.00	4.1	13.5	0.00	48.08	3.8
343.0 Prime Movers	9.40	0.00	5.8	12.5	0.00	47.92	4.2
344.0 Turbogenerator Units	13.50	(1.00)	3.9	14.3	(1.00)	52.86	3.4
345.0 Accessory Electric Equipment	7.10	(1.00)	7.5	14.4	(1.00)	52.52	3.4
346.0 Misc. Power Plant Equipment	13.50	0.00	3.8	14.2	0.00	51.03	3.4
Martin Unit 4							
341.0 Structures & Improvements	13.40	(2.00)	4.6	14.2	(2.00)	52.06	3.5
342.0 Fuel Holders, Prod. & Access.	12.80	0.00	4.6	13.5	0.00	48.08	3.8
343.0 Prime Movers	9.80	0.00	5.7	12.4	0.00	48.33	4.2
344.0 Turbogenerator Units	13.50	(1.00)	3.8	14.3	(1.00)	52.86	3.4
345.0 Accessory Electric Equipment	6.70	(1.00)	8.8	14.4	(1.00)	52.52	3.4
346.0 Misc. Power Plant Equipment	13.50	0.00	4.4	14.2	0.00	51.03	3.4
Martin Unit 8							
341.0 Structures & Improvements	25.00	(4.00)	4.2	25	(2.00)	14.07	3.5
342.0 Fuel Holders, Prod. & Access.	21.00	0.00	4.8	23	0.00	11.54	3.8
343.0 Prime Movers	18.50	(2.00)	5.5	20	0.00	13.04	4.3
344.0 Turbogenerator Units	25.00	0.00	4.0	25	(1.00)	16.83	3.4
345.0 Accessory Electric Equipment	14.50	(1.00)	7.0	25	(1.00)	16.83	3.4
346.0 Misc. Power Plant Equipment	15.00	0.00	6.7	24	0.00	17.24	3.4

Date: December 23, 2009

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
PUTNAM PLANT							
Putnam Common							
341.0 Structures & Improvements	5.40	(2.00)	4.1	10.4	(2.00)	75.48	2.6
342.0 Fuel Holders, Prod. & Access.	5.50	0.00	3.7	9.9	0.00	71.71	2.9
343.0 Prime Movers	5.50	0.00	6.3	7.7	0.00	67.92	4.2
344.0 Turbogenerator Units	5.50	(1.00)	3.8	10.4	(1.00)	75.38	2.5
345.0 Accessory Electric Equipment	5.00	(1.00)	4.2	10.4	(1.00)	75.38	2.5
346.0 Misc. Power Plant Equipment	5.50	0.00	3.7	10.3	0.00	74.25	2.5
Putnam Unit 1							
341.0 Structures & Improvements	5.50	(2.00)	4.5	10.4	(2.00)	75.48	2.6
342.0 Fuel Holders, Prod. & Access.	5.50	0.00	4.1	9.9	0.00	71.71	2.9
343.0 Prime Movers	4.30	0.00	5.2	7.9	0.00	68.40	4.0
344.0 Turbogenerator Units	5.50	(1.00)	5.4	10.4	(1.00)	75.38	2.5
345.0 Accessory Electric Equipment	5.50	(1.00)	4.3	10.4	(1.00)	75.38	2.5
346.0 Misc. Power Plant Equipment	5.50	0.00	4.1	10.3	0.00	74.25	2.5
Putnam Unit 2							
341.0 Structures & Improvements	5.50	(2.00)	4.4	10.4	(2.00)	76.13	2.5
342.0 Fuel Holders, Prod. & Access.	5.50	0.00	4.1	9.9	0.00	71.71	2.9
343.0 Prime Movers	4.10	0.00	5.4	8.6	0.00	71.33	3.3
344.0 Turbogenerator Units	5.50	(1.00)	6.6	10.4	(1.00)	75.99	2.4
345.0 Accessory Electric Equipment	5.50	(1.00)	4.2	10.4	(1.00)	75.99	2.4
346.0 Misc. Power Plant Equipment	5.50	0.00	4.1	10.3	0.00	74.88	2.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
SANFORD PLANT							
Sanford Common							
341.0 Structures & Improvements	22.00	(2.00)	3.3	22	(2.00)	24.62	3.5
342.0 Fuel Holders, Prod. & Access.	22.00	0.00	1.7	20	0.00	23.08	3.8
343.0 Prime Movers	14.90	0.00	5.9	17.8	0.00	19.09	4.5
345.0 Accessory Electric Equipment	17.00	(1.00)	2.1	22	(1.00)	26.93	3.4
346.0 Misc. Power Plant Equip.	22.00	0.00	1.6	22	0.00	24.14	3.4
Sanford Unit 4							
341.0 Structures & Improvements	22.00	(2.00)	3.3	23	(2.00)	21.10	3.5
342.0 Fuel Holders, Prod. & Access.	22.00	0.00	3.7	21	0.00	19.23	3.8
343.0 Prime Movers	15.50	0.00	5.6	16.8	0.00	20.00	4.8
344.0 Turbogenerator Units	22.00	(1.00)	4.5	23	(1.00)	23.57	3.4
345.0 Accessory Electric Equipment	17.60	(1.00)	4.5	23	(1.00)	23.57	3.4
346.0 Misc. Power Plant Equip.	22.00	0.00	3.6	23	0.00	20.69	3.4
Sanford Unit 5							
341.0 Structures & Improvements	22.00	(2.00)	3.9	22	(2.00)	24.62	3.5
342.0 Fuel Holders, Prod. & Access.	22.00	0.00	3.8	20	0.00	23.08	3.8
343.0 Prime Movers	14.50	0.00	5.7	18.1	0.00	24.58	4.2
344.0 Turbogenerator Units	22.00	(1.00)	3.8	22	(1.00)	26.93	3.4
345.0 Accessory Electric Equipment	16.60	(1.00)	4.8	22	(1.00)	26.93	3.4
346.0 Misc. Power Plant Equip.	22.00	0.00	3.8	22	0.00	24.14	3.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
TURKEY POINT							
Turkey Point Unit 5							
341.0 Structures & Improvements	25.00	(2.00)	4.1	27	(2.00)	7.03	3.5
342.0 Fuel Holders, Prod. & Access.	24.00	0.00	4.1	24	0.00	7.69	3.8
343.0 Prime Movers	17.70	0.00	5.6	15.9	0.00	9.66	5.7
344.0 Turbogenerator Units	25.00	(1.00)	4.0	27	(1.00)	10.10	3.4
345.0 Accessory Electric Equipment	18.10	(1.00)	5.6	27	(1.00)	10.10	3.4
346.0 Misc. Power Plant Equip.	14.00	0.00	7.1	27	0.00	6.90	3.4

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
WEST COUNTY PLANT							
West County Unit 1							
341.0 Structures & Improvements	NA		N/A	30	0.00	2.56	3.3
342.0 Fuel Holders, Prod.& Access,	NA		N/A	30	0.00	2.56	3.3
343.0 Prime Movers	NA		N/A	30	0.00	3.50	3.3
344.0 Turbogenerator Units	NA		N/A	30	0.00	2.50	3.3
345.0 Accessory Electric Equip.	NA		N/A	30	0.00	3.50	3.3
West County Unit 2							
341.0 Structures & Improvements	NA		N/A	30	0.00	2.56	3.3
342.0 Fuel Holders, Prod.& Access,	NA		N/A	30	0.00	2.56	3.3
343.0 Prime Movers	NA		N/A	30	0.00	3.50	3.3
344.0 Turbogenerator Units	NA		N/A	30	0.00	2.50	3.3
345.0 Accessory Electric Equip.	NA		N/A	30	0.00	3.50	3.3
West County Unit 3							
341.0 Structures & Improvements	NA		N/A	30	0.00	0.00	3.3
342.0 Fuel Holders, Prod.& Access,	NA		N/A	30	0.00	0.00	3.3
343.0 Prime Movers	NA		N/A	30	0.00	0.00	3.3
344.0 Turbogenerator Units	NA		N/A	30	0.00	0.00	3.3
345.0 Accessory Electric Equip.	NA		N/A	30	0.00	0.00	3.3

Date: December 23, 2009

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
SOLAR							
Desoto Solar Energy Center	NA		N/A	30	0	0	3.3
Spacecoast Solar Energy Center	NA		N/A	30	0	0	3.3
Martin Solar Energy Center	NA		N/A	30	0	0	3.3

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates

Table 19C-2: Recommended Production Depreciation Components and Resulting Rates							
Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
STEAM PRODUCTION - AMORTIZABLE							
316.3 Misc. Power Plant Equipment	3.00	0.00	33.3	3 Year Amortization			
316.5 Misc. Power Plant Equipment	5.00	0.00	20.0	5 Year Amortization			
316.7 Misc. Power Plant Equipment	7.00	0.00	14.3	7 Year Amortization			
NUCLEAR PRODUCTION - AMORTIZABLE							
325.3 Misc. Power Plant Equipment	3.00	0.00	33.3	3 Year Amortization			
325.5 Misc. Power Plant Equipment	5.00	0.00	20.0	5 Year Amortization			
325.7 Misc. Power Plant Equipment	7.00	0.00	14.3	7 Year Amortization			
OTHER PRODUCTION - AMORTIZABLE							
346.3 Misc. Power Plant Equipment	3.00	0.00	33.3	3 Year Amortization			
346.5 Misc. Power Plant Equipment	5.00	0.00	20.0	5 Year Amortization			
346.7 Misc. Power Plant Equipment	7.00	0.00	14.3	7 Year Amortization			

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?

Recommendation: Staff recommends the remaining life, net salvage percent, allocated reserve percent, amortizations, and resulting rates for each transmission, distribution, and general plant account contained in Table 19D-3. (Ollila)

Position of the Parties

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.

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.

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.

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.

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).

OPC: The appropriate depreciation parameters should be determined using the recommendations of OPC witness Jacob Pous regarding the appropriate life characteristics, remaining life calculations, the level of interim retirements, net salvage, and depreciation rates. The cumulative effect of his recommendations is to reduce annual depreciation expense from FPL’s requested \$1,065,623,140 to \$824,950,126, or a reduction of \$240,673,014. These positions are specifically addressed in the OPC’s brief.

FPL proposes inappropriate life characteristics and excessive levels of negative net salvage. FPL overstates depreciation expense by the cumulative effect of adjustments to 22 different accounts, each of which requires a discrete decision.

AFFIRM: No position.

AG: Adopt OPC’s position.

AIF: AIF supports the position of FPL incorporated into the depreciation study FPL filed on March 17, 2009, subject to the adjustments made in FPL Witness Ousdahl's Exhibit KO-16.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC that the appropriate parameters are as set forth in the testimony and exhibits of the Citizens' witness Jacob Pous.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL argued that its depreciation study was "conducted consistent with Commission rules and policies." (FPL BR 55) FPL also argued that while its studies were based on FPL data, the studies were "consistent" with industry ranges. (FPL BR 55)

FPL depreciation witness Clarke performed a statistical analysis of FPL data, resulting in account-specific survivor curves.⁴³ (FPL BR 61) The curves were compared to Iowa Curves, which are "used and accepted throughout the industry."⁴⁴ (FPL BR 61) The comparisons to Iowa Curves were made using "a combination of visual curve fitting and mathematical curve matching to develop the 'best' fitting curve."⁴⁵ (FPL BR 61-62)

FPL argued that OPC's recommended adjustments to FPL's proposed average service lives (ASLs) were based on visual curve fitting only. (FPL BR 62) According to FPL, OPC witness Pous "attempted to justify" his proposals through the use of industry averages. (FPL BR 62) FPL contended that industry averages "are of limited use" because ASLs vary from one company to another. (FPL BR 62) FPL argued that each of OPC's recommendations for the ASL "was shown to be unreasonable" by FPL witness Clarke. (FPL BR 62)

FPL proposed a net salvage (gross salvage minus cost of removal) percent for each account. FPL witness Clarke first reviewed net salvage data from 1986-2007. (FPL BR 62) After witness Clarke "confirmed" the data with FPL, he "rejected abnormal data that was not explained." (FPL BR 62) Witness Clarke also "looked at" trends and groups of years, known as bands, "incorporated" information he had obtained from FPL, and lastly, compared his results to

⁴³ A survivor curve is a graphical picture of the amount of property (in dollars), that exists at each age (in years), throughout the life of an original group of property. (EXH 115, p. 15)

⁴⁴ Iowa curves, published by Iowa State College in 1935, were developed by analyzing the ages at which industrial property had retired. (EXH 115, p. 17) An Iowa curve, when used in conjunction with other inputs, provides the remaining life, or how many years current plant is expected to survive, on average.

⁴⁵ Each survivor curve developed by the depreciation analyst is matched or "fitted" to an Iowa curve through one or both of two techniques, visual and mathematical curve fitting. (EXH 115, p. 31)

Date: December 23, 2009

industry results. (FPL BR 62) According to FPL, witness Clarke's "estimates were well within the industry range." (FPL BR 62) FPL argued that witness Clarke "similarly refuted" OPC witness Pous' specific recommendations for net salvage. (FPL BR 62)

As discussed in Issue 94, FPL removed the full amount of aviation costs for the 2010 and 2011 test years from its rate increase request as a "concession and to assist in the completion of the hearing." (FPL BR 85)

OPC

OPC was the only intervenor to offer testimony on this issue. OPC's brief provides detailed arguments for each of its 16 ASL proposals, 12 curve proposals, and 14 net salvage proposals, excluding the two aircraft accounts. (OPC BR 31-53) For each of the two aircraft accounts, OPC proposed different curves and ASLs. (OPC BR 53-54) OPC's arguments supporting each of its proposals are sufficiently detailed that, in order to avoid duplication of argument and testimony for OPC's 42 proposals, staff includes OPC's arguments for its proposed average service lives and net salvage percentages as part of the analysis.

ANALYSIS

This issue addresses the depreciation rates for the mass property accounts, i.e., the transmission, distribution, and general accounts. Staff's recommended depreciation parameters include the remaining life (in years), net salvage percent, and reserve percent, all of which are used to calculate the remaining life depreciation rate.⁴⁶ The reserve and any reallocations are addressed in Issue 19F. Based on the record, staff recommends adjustments to depreciation parameters in certain accounts.

For each account, FPL provided a proposal for a curve and ASL, both of which are used in the calculation of the remaining life. OPC provided proposals for curves as well as ASLs for specific accounts. Curves are denoted by a letter that describes when retirements are more likely to occur. An L curve implies that retirements tend to occur prior to the ASL, while an R curve implies that retirements tend to occur after the ASL. The average service life denotes the average number of years that the plant within a particular account is expected to live. While the ASL may be based, at least in part on historical data, it is prospective in its outlook and implementation. The remaining life is the average number of in-service years left for plant that is currently in service. The net salvage, based on historical data but also prospective in outlook, is gross salvage minus cost of removal. The reserve percent is calculated by dividing the book reserve by the original cost of plant.

OPC and FPL disagreed on how a curve should be fitted and whether certain types of retirements should be included in the data analysis. These disagreements are found throughout the account-by-account analysis. In order to avoid repetition, these disagreements will be discussed in this part of the analysis.

⁴⁶ Staff observes that both FPL and OPC recognize that depreciation involves estimates. (Clarke TR 2741; Pous TR 1804) For this reason, staff believes there is little reason to be as precise as a hundredth of a year for remaining lives. Staff's recommended lives reflect the rounding of lives over 20 years to the nearest whole year and lives less than 20 years to the tenth of a year.

OPC used visual curve fitting in its technique. OPC witness Pous asserted that data points which “reflect the most significant level of plant exposed to retirement events [exposures] —are more important . . . than others.” (TR 1892) For example, in his analysis of Account 353, Station Equipment, witness Pous contended that his proposed curve is a better fit through the first 16.5 years of age than FPL’s curve, and a comparable fit to FPL’s curve from 16.5 years through about 23.5 years. (TR 1899) According to witness Pous, FPL’s curve is a better fit between 23.5 and 36 years. (TR 1899) OPC witness Pous asserted that the level of exposures is approximately \$1.3 billion through the early years; however, it drops to approximately \$500 million by 16.5 years of age. (TR 1899) According to witness Pous, FPL’s interpretation of the actuarial analysis is “erroneous” because it places greater significance on the end of the curve, rather than the top or head of the curve where the level of exposures is much higher. (TR 1899)

FPL used visual curve fitting and mathematical (statistical) matching in its technique. (TR 2798) FPL witness Clarke averred that the emphasis in curve fitting should be placed on the middle years, basing his methodology on Bulletin 125 by Robley Winfrey, “considered the dean of depreciation and life analysis.”⁴⁷ (TR 2799) Mr. Winfrey’s recommendation is to give more weight to the middle portion of the curve, between 80 and 20 percent surviving, because this section “is the result of greater numbers of retirements and also it covers the period of most likely the normal operation of the property.” (TR 2799; EXH 349, p. 2) Even so, according to FPL, “if the average service life and the survivor curve combination was not reasonable, experience and judgment were needed.” (EXH 35, BSP 1788) FPL witness Clarke asserted that OPC witness Pous proposed “exactly the opposite” of what Mr. Winfrey recommends. (TR 2799-2800)

The disagreement on curve fitting between FPL and OPC only serves to emphasize the need for judgment. Based on the evidence, staff believes that FPL’s method of curve estimation, as described in the record, is appropriate because it relied on visual and mathematical curve fitting, as well as classic depreciation theory.

There is significant disagreement between FPL and OPC on whether certain data should be included or excluded when analyzing retirements and their associated cost of removal and gross salvage. When analyzing data for retirements, cost of removal, and gross salvage, FPL witness Clarke included recurring retirements that were reimbursed by outside parties. (TR 2815) Witness Clarke, however, removed reimbursed retirements that he considered to be nonrecurring, for example, relocations required by the Department of Transportation and the installation of the new Metrorail line. (TR 2815) Witness Clarke also removed data related to hurricanes. (TR 2815) According to witness Clarke, hurricanes “are unexpected events that are not indicative of the future activity for an account.” (TR 2818)

OPC witness Pous did not distinguish between recurring and nonrecurring reimbursed retirements. He contended that FPL witness Clarke “removed the impact of reimbursed retirements from the analyses, even though such events occur on an annual basis” (TR 1937) Witness Pous asserted that these reimbursed retirements “cannot legitimately be considered outliers.” (TR 1937)

⁴⁷ Bulletin 125 was originally printed in 1935 by Iowa State University. It was revised by Harold A. Cowles, renamed the “Statistical Analyses of Industrial Property Retirements,” and reprinted in April, 1967. (EXH 349, p. 1)

Staff believes that it is reasonable to remove data related to nonrecurring events, such as hurricane effects and nonrecurring reimbursed retirements, from the analysis because the data can skew the results of the analysis. At the same time, staff believes that it is reasonable to include recurring data.

OPC proposed depreciation parameters for the aircraft accounts. (OPC BR 53-54) However, as discussed in Issue 94, because FPL removed aviation costs from rate base, staff believes that there is no need at this time for the Commission to order depreciation rates for these accounts. If, in the future, FPL wishes to include aviation investment and depreciation expense in rate base for establishing revenue requirements, it will need to file a new depreciation study.

Account-Specific Analysis: Transmission Plant

Account 350.20 – Easements

FPL proposed no change to its current S4 curve, 50-year average service life, and 0 percent net salvage. OPC proposed an increase in the average service life from 50 to 95 years.

OPC argued that FPL relied on “suggestive” industry data for its ASL proposal. (OPC BR 31) OPC also argued that it is difficult to obtain easements for new transmission lines. (TR 1896; OPC BR 31) This difficulty, in OPC’s view, results in FPL’s continued reliance on existing easements. (TR 1896-1897) OPC witness Pous characterized his proposal as “conservative.” (TR 1897; OPC BR 31) Witness Pous pointed out in his testimony that FPL does not have plans to retire easements. (TR 1897; OPC BR 31)

FPL’s plans are to continue to use existing easements “as it replaces transmission investment that currently occupies the easement.” (EXH 189, p. 76) Although not all of FPL’s easements are perpetual, FPL indicated that its “policy is to obtain perpetual rights easements (no expiration) everywhere that is available.” (EXH 189, p. 77)

FPL witness Clarke asserted that there were “not many retirements in this account;” consequently, the “results of the statistical analysis were poor.” (TR 2802) According to witness Clarke, the industry range is 40-60 years, and with the present ASL of 50, “[t]here is no reason to warrant a change from the current approved [average service life of 50].” (TR 2802) Witness Clarke characterized OPC’s proposal of a 95-year ASL as “absurd.” (TR 2802) Witness Clarke averred that the maximum life of the equipment on the easements, e.g., poles, would be one half of the life of the easement. (TR 2802)

Staff believes that a 50-year average service life for easements is too short, based on the evidence. Staff believes that OPC’s arguments, for the most part, are convincing; however, not all of FPL’s easements are perpetual. Therefore, staff believes a reasonable compromise is an average service life of 75 years.

Account 352.00 – Structures and Improvements

FPL proposed a change in curve from S4 to R3, an increase in the ASL from 47 to 60 years, and a decrease in net salvage from (10) percent to (15) percent. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, both his actuarial analysis and industry data suggest a life of 50 – 60 years. (EXH 115, p. 487) Witness Clarke also asserted that both his proposed curve and ASL “are reasonable for structure of this nature, produce the best results in the life analysis and are consistent with the estimates used by other electric utilities.” (EXH 115, p. 487) Staff notes that both the S4 and R3 curves, with a 60-year ASL, result in approximately the same remaining life.

Witness Clarke asserted that cost of removal has increased recently; however, gross salvage is “negligible.” (EXH 115, p. 487) After reviewing the data, staff agrees that gross salvage is negligible. Between 2000 and 2007, cost of removal ranged from 0 percent (2000) to 387 percent (2003). (EXH 115, p. 491) Staff agrees that decreasing the net salvage from (10) to (15) percent appears reasonable in light of the data.

Account 353.00 – Station Equipment

FPL proposed no change in the current R1.5 curve, a two-year increase in the ASL from 36 to 38 years, and a decrease in net salvage from five percent to (10) percent. OPC proposed an L1 curve, 43-year ASL, and 0 percent net salvage.

OPC argued that FPL’s curve and ASL proposal “relies on a poor and inappropriate interpretation of the results of its actuarial analysis” (OPC BR 32) Witness Pous contended that his proposed curve is a better fit through the first 16.5 years, where there are the greatest level of exposures (plant available for retirement). (TR 1899) According to FPL witness Clarke, FPL’s curve was the “best fitting curve mathematically.” (TR 2803) As discussed above, staff believes that FPL’s curve fitting technique is the appropriate technique. Staff recommends the R1.5 curve.

OPC witness Pous also asserted that with regard to the ASL, FPL witness Clarke was incorrect when he asserted that an ASL of 38-39 years is “typical.” (TR 1900) According to OPC witness Pous, an ASL of 38-39 years falls at the low end of industry data. (TR 1900; OPC BR 32) Witness Pous contended that, based on FPL’s industry data, a “typical” ASL would be 45 or 50 years. (TR 1900) Witness Pous also asserted that although FPL claimed it recognized the trend toward longer lives, it “did not follow through.” (TR 1900) Staff agrees with OPC that the ASL should be longer than the 38 years proposed by FPL. However, staff believes an increase from 36 to 43 years is too large an increase at one time. Therefore, based on the record evidence, staff recommends a compromise ASL of 40 years.

For net salvage, OPC argued that FPL’s proposal is “inappropriate.” (OPC BR 32) According to OPC witness Pous, there are “atypical values” in FPL’s data that “drive” FPL’s proposal to decrease net salvage from five to (10) percent. (TR 1944) Witness Pous also contended that FPL’s proposal “fails to analyze the relationship of investment mix versus retirement mix” (TR 1944) Witness Pous asserted that the trend of increases in the cost of removal is “significantly driven by retirements during 2007.” (TR 1945)

FPL witness Clarke asserted that OPC witness Pous “claims to have investigated these [unusual] values, but the results of his ‘investigation’ are in some ways bizarre.” (TR 2817) According to FPL witness Clarke, witness Pous claimed that 2007’s large cost of removal “is

driven by the retirement of a building with a high level of asbestos.” (TR 2817) According to witness Clarke, the type of building referred to by OPC is in another account. (TR 2817)

While staff believes that the cost of removal should be decreased, staff believes a decrease from five percent to (10) percent is too drastic. Therefore, staff recommends a compromise of (2) percent net salvage.

Account 353.10 – Station Equipment – Generator Step-Up Transformers

FPL proposed a change in the curve from S3 to R2, a decrease in the ASL from 35 to 33 years, and a decrease in net salvage from five to 0 percent. OPC proposed a change in the curve from S3 to S0.5 and an increase in the ASL from 35 to 44 years.

OPC argued that FPL’s approach to determining an ASL is “simplistic and flawed.” (OPC BR 33) OPC witness Pous contended that it is “illogical and inconsistent with the historical practices for the industry” to propose a shorter life for step-up transformers than for the rest of the generation plant to which the investment in this account is “directly tied.” (TR 1903) Witness Pous also asserted that a significant retirement occurred at age zero that should have been removed from the analysis. (TR 1903; OPC BR 33)

FPL witness Clarke’s rebuttal was brief. Witness Clarke asserted that his curve and ASL proposals were based on statistical analysis. (TR 2803) He further asserted that the “statistical analysis was good and showed a good fit . . . both graphically and mathematically.” (TR 2804) Witness Clarke contended that removing the retirement that occurred at year zero did not impact his analysis. (TR 2804)

As discussed above, staff believes FPL’s curve fitting technique is appropriate; therefore, staff recommends the R2 curve. Staff disagrees with FPL’s shortening of the ASL; however, staff does not believe that the record supports an increase in average service life. Therefore, staff recommends the ASL remain at 35 years.

Account 354.00 – Towers and Fixtures

FPL proposed no change to the existing R5 curve, 45-year ASL, and (15) percent net salvage. OPC proposed a small change in the curve from R5 to R4, an increase in the ASL from 45 to 60 years, and an increase in net salvage from (15) percent to 0 percent.

OPC argued that FPL admitted that the results of its actuarial analysis are “poor.” (OPC BR 34) OPC witness Pous asserted that OPC’s “recommendation is logically derived from Company specific data, and is also reflective of what Mr. Clarke and his firm have recommended in other depreciation studies.” (TR 1905) According to witness Pous, the basis for OPC’s recommendation for an R4 curve and 60-year ASL is primarily that FPL has “substantial” investment 35 years old or older and that there have been few retirements. (TR 1905) With few retirements, OPC placed “greater reliance” on information from the industry. (TR 1906) OPC argued that, using FPL’s industry data, 63 years is the average ASL. (TR 1906; OPC BR 34)

FPL witness Clarke contended that there was insufficient information to recommend a change to the ASL. Witness Clarke also asserted that OPC provided no evidence that the

industry data results in an “appropriate comparison with FPL.” (TR 2804) Additionally, witness Clarke asserted that OPC was “wrong” about FPL having plant close to the maximum age. (TR 2804) According to witness Clarke, the maximum life for the R5 curve with 45-year ASL is over 60 years; the oldest FPL plant is 49 years old as of December 31, 2009. (TR 2804)

Staff believes that limited retirements lend credence to OPC’s proposal for a longer life. However, staff also believes that 60 years is too long. Accordingly, staff believes the R5 curve with a 52-year ASL is reasonable.

With regard to net salvage, OPC argued that FPL’s proposal “is based on its failure to properly analyze the data upon which it relied.” (OPC BR 34) OPC witness Pous primarily based his arguments on what he viewed as data manipulation, including the 2006 data. (TR 1948) According to FPL witness Clarke, OPC witness Pous contended that reimbursed retirements should have been included. (TR 2818) FPL witness Clarke contended that OPC’s argument about discrepancies in 2006 data is related to hurricane-related retirements, which FPL removed from the data. (TR 2818) As discussed above, staff believes that FPL’s approach with regard to reimbursed retirements and the effects of hurricanes is reasonable. Therefore, staff recommends that the net salvage remain at (15) percent.

Account 355.00 – Poles and Fixtures

FPL proposed no change to the R2 curve, an increase in the ASL from 41 to 44 years, and no change to the (50) percent net salvage. OPC proposed that the net salvage be increased from the current (50) percent to (30) percent.

OPC witness Pous contended that FPL’s “manipulation of its actual historical data is suspect.” (TR 1951) By this, OPC meant that FPL removed reimbursed retirements and hurricane related data. (OPC BR 35; TR 1951) As discussed above, staff believes that FPL’s approach with regard to reimbursed retirements and the effects of hurricanes is reasonable.

OPC witness Pous also contended that FPL ignored more recent data with reduced negative net salvage. (OPC BR 35-36; TR 1952) OPC argued that FPL did not consider economies of scale. (OPC BR 36; TR 1952) OPC further argued that although FPL expected increased negative net salvage because of preservatives on the poles, FPL “admitted” that the majority of transmission poles are concrete. (OPC BR 36) Witness Clarke responded to OPC’s contention that FPL ignored recent data by explaining that “a more detailed look at the history of this account reveals that there is more of a cyclical trend” (TR 2819) With regard to economies of scale, witness Clarke referred to an earlier discussion where he pointed out that for economies of scale to be pertinent, large numbers of retirements need to occur in close proximity. (TR 2816; TR 2818)

Staff believes that FPL’s removal of nonrecurring reimbursed retirements and hurricane data is appropriate; otherwise, this data might skew the results. After reviewing the data, staff believes that the data is probably more cyclical in nature than not. While staff believes that some economies of scale might be present, they are probably small once hurricane data is excluded. Accordingly, staff believes (50) percent net salvage is appropriate.

Account 356.00 – Overhead Conductors and Devices

FPL proposed no change in the R1.5 curve, an increase in the ASL from 44 to 47 years, and a decrease in net salvage from (45) to (50) percent. OPC proposed an S0 curve, an increase in the ASL to 51 years, and an increase in net salvage from (45) to (40) percent.

OPC witness Pous contended that his curve fitting technique provides a “somewhat better overall fit” than FPL’s technique. (TR 1907) As discussed above, staff believes FPL’s curve fitting technique is appropriate; therefore, staff recommends approval of the R1.5 curve.

OPC witness Pous asserted that the process of upgrading lower voltage transmission lines to higher voltage lines “artificially shortened the overall life expectancy of the previously retired investment.” (TR 1907) Thus, according to witness Pous, a longer ASL is indicated. (TR 1907-1908) Witness Pous contended that another reason for an increased ASL is the “not in my backyard” or “NIMB” syndrome. (TR 1908)

FPL witness Clarke discounted OPC’s arguments by asserting that the “data for this account is excellent and fits the Iowa curve selection very nicely.” (TR 2805) Staff believes that FPL has made the more persuasive case in its proposal to increase the ASL from 44 to 47 years.

With regard to net salvage, OPC argued that FPL manipulated the database by removing reimbursed retirements. (OPC BR 37) As discussed above, staff believes that FPL’s approach on reimbursed retirements and hurricane effects is reasonable. Therefore, staff recommends a net salvage of (50) percent.

Account 357.00 – Underground Conduit

FPL proposed a change in curve from S3 to R4, an increase in the ASL from 46 to 60 years, and no change to the net salvage of 0 percent. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, actuarial data and industry data support an increase in the ASL and a change to a “higher mode” curve. (EXH 115, p. 531) Staff notes that whether the S3 or R4 curve is used with the ASL of 60 years, the remaining life differs by less than one year. With “limited” data, witness Clarke asserted that a net salvage “close to 0 percent is appropriate since underground conduits are generally abandoned in place.” (EXH 115, p. 531) Staff believes that the R4 curve, 60-year ASL, and 0 percent net salvage are reasonable.

Account 358.00 – Underground Conductors and Devices

FPL proposed a change in curve from S3 to L3, an increase in the ASL from 35 to 60 years, and a decrease in net salvage from 0 to (10) percent. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, the actuarial analysis results in life indications of 50 to 60 years, with industry data ranging between 30 and 60 years. (EXH 115, p. 539; TR 2833) Witness Clarke asserted that, “[g]enerally, the cost of removing wire from underground conduit is expected to be greater than its salvage value, thus net salvage of 0 or less is reasonable.” (EXH

115, p. 539) According to witness Clarke, industry data suggest net salvage between 0 and (20) percent. (EXH 115, p. 539) Witness Clarke asserted that, for FPL, salvage data is “sporadic” for some years. (EXH 115, p. 539)

Staff notes that using an S3 curve or an L3 curve with a 60-year ASL results in almost the same remaining life (difference of less than one year). Staff believes the change in curve is reasonable. With regard to net salvage, there has been no gross salvage since 2000, while cost of removal has experienced considerable variance (e.g., 37 percent in 2006 and 509 percent in 2005). (EXH 115, p. 543) Overall, net salvage appears to be decreasing; therefore, staff believes the decrease in net salvage to (10) percent is reasonable.

Account 359.00 – Roads and Trails

FPL proposed no change to the current curve, no change in the 50-year ASL, and a decrease in net salvage from 0 to (10) percent. OPC proposed that the ASL be increased to 65 years.

According to FPL witness Clarke, there is “very little activity in this account.” (EXH 115, p. 547) Witness Clarke concludes, based in part on industry data, that a range of 50 to 70 years “would be consistent with the industry range.” (EXH 115, p. 547) Witness Clarke decreased the net salvage because “there is [sic] some removal costs preparing to restore to pristine condition.” (EXH 115, p. 547) According to witness Clarke, the cost of removal rates are (41) percent for the 20-year band and (48) percent for the 5-year band.

OPC argued that investments in this account can and will last longer than the 50 years proposed by FPL. (OPC BR 38; TR 1909) According to OPC witness Pous, “limited level of retirement activity . . . is indicative of longer life spans for such investments.” (TR 1909-1910) OPC witness Pous also compared FPL witness Clarke’s proposal in this docket with proposals he made in other states. (TR 1910) FPL witness Clarke opined that there is “no justification” for extending the life; furthermore, he asserted that witness Pous provided “no valid justification” for his proposal. (TR 2805) Witness Clarke disagreed with OPC witness Pous that what witness Clarke proposed in other states is relevant in this case. (TR 2805)

Staff agrees with OPC that limited retirement activity lends support to an increase in life. Staff believes that a 65-year ASL for this account is reasonable.

Account-Specific Analysis: Distribution Plant

Account 361.00 – Structures and Improvements

FPL proposed a change in curve from L3 to R3, an increase in the ASL from 45 to 60 years, and no change to the net salvage of (15) percent. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, the actuarial analysis supports a change in curve and an increase in life. (EXH 115, p. 552) Industry lives for this account range from 30 to 65 years. (EXH 115, p. 552) Changing the curve from L3 to R3 with a 60-year ASL results in remaining lives that are less than one year apart. According to witness Clarke, cost of removal is

increasing, but gross salvage is “negligible.” (EXH 115, p. 552) Staff believes the R3 curve, 60-year ASL, and net salvage of (15) percent are reasonable.

Account 362.00 – Station Equipment

FPL proposed no change in the R1.5 curve, an increase in the ASL from 38 to 41 years, and no change in the (10) percent net salvage. OPC proposed a change in the curve from R1.5 to S0 and an increase in the ASL from 38 to 48 years.

OPC argued that its curve fitting technique, which places greater emphasis on the level of exposures, is appropriate. (TR 1911; OPC BR 38) As discussed above, staff believes that FPL’s technique is appropriate; therefore, staff recommends the R1.5 curve. OPC witness Pous also contended that FPL’s industry average is 46 years. (TR 1912) FPL witness Clarke disagreed with OPC’s proposed increase in the ASL to 48 years. However, staff believes that a modest increase in life beyond FPL’s is warranted. Staff recommends that the life be increased to 43 years.

Account 364.00 – Poles, Towers, and Fixtures

FPL proposed a slight change in the curve, from R1.5 to R2, an increase in the ASL from 34 to 37 years, and a decrease in net salvage from (40) percent to (125) percent. OPC proposed the curve remain at R1.5, an increase in the ASL from 34 to 41 years, and a decrease in net salvage from (40) percent to (60) percent.

OPC witness Pous contended that his proposed curve and ASL are a “superior fit” compared to FPL’s proposal. (TR 1913) Witness Pous asserted that FPL’s statements that “most poles in the system are concrete poles is incorrect;” the “vast majority” of poles are wood poles. (TR 1913) According to witness Pous, FPL recognized, but did not appear to incorporate, programs to extend the life of wood poles. (TR 1913) Witness Pous averred that industry data supports an ASL longer than the 37 years proposed by FPL. (TR 1914) FPL witness Clarke asserted that FPL is “not sure” how many wood poles will be replaced with concrete poles. (TR 2806) Witness Clarke contended that his ASL proposal extends the life, but to increase it even more “is not justified at this time.” (TR 2806) Additionally, according to witness Clarke, using the average life in the industry is “incorrect.” (TR 2807) Staff believes that it is reasonable to extend the ASL further; however, staff believes a compromise ASL of 39 years is appropriate based on the record. Staff also believes the R2 curve is appropriate.

FPL proposed to decrease net salvage from (40) to (125) percent because of a “large increase in removal costs.” (EXH 115, p. 569) OPC proposed a much smaller decrease in net salvage from (40) to (60) percent. OPC argued that FPL’s proposal is the “most aggressive depreciation practice presented by the Company.” (OPC BR 39) OPC witness Pous contended that a review of the data indicates FPL “has significantly manipulated the historical results” by removing reimbursed retirements. (TR 1957-1958) Witness Pous also asserted that while FPL “has raised concerns” about the disposal of treated wood poles, FPL “fails to note” the level of investment of concrete poles (18 percent), and that FPL is adding concrete poles at a faster rate than wood poles. (TR 1958)

As discussed above, staff believes that FPL's approach on reimbursed retirements is reasonable. A review of the data shows that cost of removal is increasing and gross salvage is decreasing. (EXH 115, p. 573) Staff believes it would be a useful exercise for FPL to perform an analysis to determine why this is occurring and whether it is possible for FPL to make internal changes that might mitigate this trend. Staff believes that FPL's proposed decrease in net salvage is too large and may well be premature. OPC's proposed net salvage of (60) percent represents a moderate decrease in net salvage, yet it still reflects FPL's actual experience. Staff recommends (60) percent net salvage.

Account 365.00 – Overhead Conductors and Devices

FPL proposed a slight change in curve, from S0.5 to S0, an increase in the ASL from 35 to 40 years, and a decrease in net salvage from (50) to (100) percent. OPC proposed the S0 curve, an increase in the ASL to 43 years, and no change in net salvage of (50) percent.

OPC argued that its proposed 43-year ASL is the "only credible recommendation in the record." (OPC BR 42) OPC witness Pous contended that if FPL had used the 20-year experience band, the ASL "would have to be increased" to 46 years instead of 40 years. (TR 1915) Additionally, according to witness Pous, industry information would support an ASL in the "mid 40s." (TR 1916) FPL witness Clarke contended that his statistical analysis was "good" and his proposal was a "good fit both graphically and mathematically." (TR 2807) Witness Clarke asserted that witness Pous did not explain why a 20-year band should be used. (TR 2807) Staff believes that both parties made good arguments; thus, a compromise on the ASL is the most reasonable recommendation. Therefore, staff recommends an S0 curve and 41-year life.

FPL proposed a net salvage of (100) percent, in effect doubling the negative net salvage. OPC witness Pous contended that FPL's proposal was made "without adequate or reasonable justification for its position." (TR 1960-1961) According to witness Pous, FPL did not investigate a "significant anomaly," a large negative gross salvage in 2006. (TR 1961) FPL responded that it considered the amount an outlier. (TR 2823) FPL witness Clarke contended that assuming an "average" salvage in 2006, the net salvage would have been over (90) percent. (TR 2823) According to OPC witness Pous, the "disproportionate retirement level of switches in the historical database is skewing" FPL's proposal. (TR 1963) FPL witness Clarke responded that he looked at all retirements, not just the 10 percent of retirements comprised of switches. (TR 2823) Part of OPC's argument refers to reimbursed retirements. (TR 1962)

As discussed above, staff believes FPL's approach to reimbursed retirements is reasonable. However, staff believes such a large decrease in net salvage is without adequate support. A review of the data shows that cost of removal is increasing. Staff believes it would be a useful exercise for FPL to perform an analysis to determine why the cost of removal is increasing and whether it is possible for FPL to make internal changes that might mitigate this trend. Staff believes that a modest decrease in net salvage, reflecting the data, is appropriate. Accordingly, staff recommends (60) percent net salvage.

Account 366.60 – Underground Conduit, Duct System

FPL proposed a small change in the curve, from S3 to S1.5, an increase in the ASL from 48 to 70 years, and an increase in the net salvage from (10) percent to (5) percent. OPC proposed a net salvage of 0 percent.

OPC argued that FPL's proposed increase in net salvage is "inadequate." (OPC BR 43) OPC witness Pous asserted that the 5-year salvage band results support a 0 percent net salvage; however, the 3-year bands are positive. (TR 1965) According to witness Pous, "[I]f reimbursed retirements are recognized, the historical database turns *positive* [emphasis in original] overall." (TR 1965) As discussed above, staff believes that FPL's approach on reimbursed retirements is reasonable. However, after an evaluation of the data, staff believes the record supports an increase in the net salvage somewhat more than FPL's proposal. Staff believes that a net salvage of (2) percent is appropriate.

Account 366.70 – Underground Conduit, Direct Buried

FPL proposed a change in curve from S3 to R4, an increase in the ASL from 41 to 50 years, and no change in the 0 percent net salvage. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, the results of the actuarial analysis were "poor." (EXH 115, p. 593) Lives in the industry range from 35-80 years. (EXH 115, p. 593) Witness Clarke asserted that the S3 curve is "too short" and the ASL should be increased. (EXH 115, p. 593) According to witness Clarke, the "cost of removal and [gross] salvage percents are all over the place for this account;" therefore, his proposal is to retain the net salvage. (EXH 115, p. 593) Staff believes that the R4 curve, 50-year ASL, and 0 percent net salvage are reasonable.

Account 367.60 – Underground Conductors and Devices Duct System

FPL proposed to retain the S0 curve, 38-year ASL, and (5) percent net salvage. OPC proposed a curve change from S0 to L1, an increase in the ASL from 38 to 40 years, and an increase in net salvage from (5) percent to 0 percent.

OPC argued that the L1 curve is a better fit through the first 12 to 13 years. (TR 1917) As discussed above, staff believes that FPL's curve fitting technique is appropriate. Therefore, staff recommends the S0 curve. OPC witness Pous contended that tree retardant cable, which comprises over 22 percent of the investment, provides support for a longer ASL. (TR 1918; OPC BR 44) FPL witness Clarke responded that he was unaware that there was an established industry life for tree retardant cable longer than 38 years. (TR 2807) FPL's argument is persuasive; therefore, staff recommends an S0 curve and 38-year ASL.

For net salvage, OPC based its proposal, in part, on reimbursed retirements. (TR 1967) As discussed above, staff believes FPL's approach on reimbursed retirements is reasonable. However, staff believes 0 percent net salvage is appropriate based on the data.

Account 367.70 – Underground Conductors Devices Direct Buried

FPL proposed a change in curve from R2.5 to R2, an increase in the ASL from 34 to 35, and no change in the 0 percent net salvage. OPC proposed a change in curve from R2.5 to S0.5 and an increase in the ASL from 34 to 43 years.

OPC argued that its “presentation of a better curve fit was un rebutted.” (OPC BR 45) OPC witness Pous asserted that his proposed curve is a better fit than FPL’s during different periods. (TR 1919) As discussed earlier, staff believes that FPL’s curve fitting technique is appropriate; therefore, staff recommends the R2 curve. OPC witness Pous contended that the slowing of retirements in the last six years would support an increased ASL beyond FPL’s proposal. (TR 1920) According to FPL witness Clarke, while retirements had slowed down, they have begun to increase again. (TR 2808) Staff believes a 35-year ASL is reasonable and supported by the evidence.

Account 368.00 – Line Transformers

FPL proposed a change in curve from L2 to L1.5, an increase in the ASL from 31 to 32, and an increase in net salvage from (35) percent to (25) percent. OPC proposed the L1.5 curve, an ASL of 34 years, and an increase in net salvage to (20) percent.

OPC argued that its proposed curve is a better fit for ages less than 24.5 years. (OPC BR 45-46; TR 1922) As discussed above, staff believes that FPL’s curve fitting technique is appropriate; therefore, staff recommends the L1.5 curve. OPC witness Pous asserted that his ASL recommendation of 34 years is closer to the industry average ASL than FPL’s. (TR 1923) Although FPL witness Clarke mentioned OPC’s discussion of industry averages, witness Clarke did not refute the use of averages; rather, he contended that the statistical analysis was “good” and that his proposed curve and life “fit good both graphically and mathematically.” (TR 2808) According to witness Clarke, the industry range is 26-45 years. Staff believes an increase in the ASL to 33 years is reasonable and appropriate.

FPL witness Clarke asserted that his proposed increase in net salvage is based on a decline in the cost of removal with almost no gross salvage. (TR 2825) OPC argued that FPL’s proposal is insufficient. (TR 1968; OPC BR 46) Witness Clarke contended that OPC has “no facts” for increasing the net salvage compared to what FPL proposed. (TR 2825) After reviewing the data, staff believes that an increase in net salvage from (35) to (25) percent is reasonable.

Account 369.10 – Services, Overhead

FPL proposed a small change in the curve, from R1.5 to R1, an increase in the average service life, from 36 to 48 years, and a decrease in the net salvage, from (60) percent to (125) percent. OPC proposed that the net salvage be decreased from (60) percent to (85) percent.

OPC provided several arguments against decreasing the net salvage. First, OPC witness Pous asserted that FPL’s current net salvage is “already more negative than the industry average by a significant level.” (TR 1971) Second, witness Pous contended that FPL’s accounting practices are “suspect.” (TR 1971) Third, according to witness Pous, FPL’s proposed net

salvage would produce \$4.2 million of negative net salvage, an amount that is “almost *four* [emphasis in original] times the average level of negative net salvage the Company has experienced throughout its historical database” (TR 1971) Additionally, OPC argued that FPL’s proposal was made “without any consideration of what causes it to be so much more negative than the industry.” (OPC BR 47)

According to FPL witness Clarke, net salvage has been more than (200) percent in some recent years. (TR 2826) Witness Clarke asserted that a “direct comparison of FPL to the companies in my industry group would not be an ‘apples to apples’ comparison.” (TR 2826) This is because of the “many factors” that influence FPL’s data, including “accounting policies, O&M practices, management policies, etc.” (TR 2826)

It is clear from a review of the data that cost of removal is increasing. Staff believes it would be a useful exercise for FPL to perform an analysis to determine why the cost of removal is increasing and whether it is possible for FPL to make internal changes that might mitigate this trend. Staff also believes that decreasing net salvage from (60) to (125) percent is far too drastic. Staff believes that decreasing net salvage from (60) to (85) percent is a moderate change that, nonetheless, recognizes what is occurring in this account.

Account 369.70 – Services, Underground

FPL proposed no change in the R2 curve, 34-year ASL, and (10) percent net salvage. OPC proposed a change in curve from R2 to S0.5, an increase in the ASL from 34 to 41 years, and an increase in net salvage from (10) percent to (5) percent.

OPC witness Pous contended that its proposed curve is an “excellent” fit through the first 13.5 years of age. (TR 1924) As discussed above, staff believes that FPL’s curve fitting technique is appropriate; therefore, staff recommends the R2 curve. According to witness Pous, FPL did not state that the average ASL for its industry database is 39 years, five years longer than FPL’s proposed ASL, while OPC’s proposal is two years higher. (TR 1925; OPC BR 48) According to FPL witness Clarke, retirements in this account are “very small compared to the exposures.” (TR 2809) Staff believes an ASL of 38 is both moderate and reasonable, taking into account what appears to be longer living plant.

OPC argued that the “only credible evidence in the record supports” OPC’s net salvage proposal. (OPC BR 49) Witness Pous averred that there appears to be a correlation between quantity retired and cost of removal, such that economies of scale had an impact. (TR 1973-1974) FPL witness Clarke alleged that witness Pous “attempts to confuse the record.” (TR 2827) Staff believes that an increase in net salvage to (5) is appropriate based on data and the record.

Account 370.00 – Meters

FPL proposed a change in curve from S2 to R2.5, an increase in the ASL from 34 to 36 years, and a decrease in net salvage from (30) percent to (55) percent. OPC proposed a curve of S1.5, an ASL of 38, and net salvage of (10) percent.

According to OPC witness Pous, his visual curve fitting technique produces a better fit through the first 22.5 years. As discussed above, staff believes that FPL’s curve fitting technique

is appropriate; therefore, staff recommends the R2.5 curve. OPC argued that based on actuarial analysis, an ASL of 38 years is warranted. (TR 1926; OPC BR 50) FPL expects to retire approximately 4.3 million meters in the next five years; meters that will be replaced with AMI meters (Account 370.10). (EXH 115, p. 635) Staff believes that increasing the ASL beyond 36 years is premature because of the planned replacements of meters.

OPC argued that FPL did not establish that its historical net salvage "is indicative of what will transpire in the future" (OPC BR 50) OPC witness Pous asserted that FPL did not refer to industry data when discussing this account because if it had, "it would have become patently clear that the Company's proposal falls so far outside reasonable bounds as to lack credibility." (TR 1975) According to OPC witness Pous, the industry database upon which FPL relied shows an average net salvage of (3) percent, with the most negative net salvage at (25) percent. (TR 1975-1976) OPC witness Pous based his recommendation on a cost of removal estimate of \$5.63 per meter, taken from a case in Texas. (TR 1976) Witness Pous applied \$5.63 to FPL's 4.3 million meters that will be retired in the next five years, yielding an approximate net salvage of (10) percent. (TR 1976) FPL witness Clarke contended that retiring 4.3 million meters will have "no bearing" on the contents of this account. (TR 2827) Witness Clarke asserted that his proposed net salvage relates to those meters not being replaced with AMI meters because meters removed due to the AMI program will be moved to a capital recovery schedule. (TR 2827-2828)

Staff is troubled by such a high proposed cost of removal. Although the data may appear to support a higher cost of removal, FPL did not provide an analysis of why the cost of removal is high. Staff would suggest that FPL investigate and determine the reasons for the high cost of removal in this account. Staff believes that it is premature to increase the cost of removal. At the same time, the data indicates a net salvage less than OPC's proposal. Therefore, staff recommends that the net salvage remain at (30) percent.

Account 370.10 – Meters – AMI

This is a new subaccount, containing AMI meters. FPL proposed a curve of R2.5, an ASL of 20 years, and (55) percent net salvage. OPC proposed a net salvage of (10) percent.

FPL based its curve on the curve for Account 370.00, Meters, and its proposed ASL on the manufacturer's suggested 20-year life. (EXH 115, p. 642) Staff believes this is reasonable.

With regard to net salvage, FPL witness Clarke noted that AMI meters are "new and no historical information is available." (EXH 115, p. 642) FPL witness Clarke asserted that there is no reason to use a different net salvage for this account than for Account 370.00, Meters. (TR 2828) Therefore, he recommended the same net salvage percent that he recommended for Account 370.00, Meters. (EXH 115, p. 642) OPC argued that its recommendation also relies on its recommendation for Account 370.00, Meters. (TR 1978; OPC BR 50-51)

At this time, staff agrees that the net salvage for this account should be the same as the net salvage for Account 370.00, Meters. Therefore, based on the discussion in Account 370.00, Meters, staff believes a net salvage of (30) percent is appropriate.

Account 371.00 – Installations on Customer’s Premises

FPL proposed a slight curve change, from L1 to L0, an increase in the ASL from 15 to 30 years, and a decrease in net salvage from (15) to (25) percent. None of the intervenors offered any proposal for this account.

Most additions to this account occurred within the last 30 years. (EXH 115, p. 645) Industry lives range from 10 to 30 years, averaging 22 years. (EXH 115, p. 645) According to FPL witness Clarke, the current L1 curve and 15-year life are “low for this type of equipment and within the industry range.” (EXH 115, p. 645) Staff believes the L0 curve and 30-year ASL are reasonable.

Witness Clarke asserted that the cost of removal increased in the last five to six years, while gross salvage has decreased. (EXH 115, p. 645) According to witness Clarke, the industry range is from 0 to (40) percent. (EXH 115, p. 645) Witness Clarke’s proposed decrease in net salvage derives from the last five years. (EXH 115, p. 645) Staff believes a decrease in net salvage is reasonable; however, a change from (15) to (25) percent is too drastic based on the evidence. Staff believes a more moderate change is appropriate. Accordingly, staff believes a net salvage of (20) percent is appropriate.

Account 373.00 – Street Lighting and Signal Systems

FPL proposed a change in curve from S-0.5 to R0.5, an increase in the ASL from 20 to 30 years, and an increase in net salvage from (35) to (20) percent. OPC proposed an L0 curve with a 35-year life.

OPC witness Pous asserted that his curve fitting technique is a better fit through the first 10.5 years. (TR 1928) As discussed above, staff believes that FPL’s curve fitting technique is appropriate; therefore, staff recommends the R0.5 curve.

OPC argued that FPL “failed to consider the technological changes” that have occurred to this account’s investment. (OPC BR 51) OPC witness Pous asserted that the changes in technology in this account have led to shorter ASLs (for existing plant). (TR 1928) Therefore, according to witness Pous, OPC’s recommended 35-year life is a “conservative estimate at this point in time,” because FPL has not identified any new technologies. (TR 1928) According to FPL witness Clarke, FPL did not identify any changes in the near future; therefore, witness Clarke asserted that he did not believe that OPC had a “valid basis” for its prediction. (TR 2810) Staff does not believe the record supports an increase in the ASL from 20 to 35 years. Staff believes a 30-year ASL is appropriate.

Account 390.00 – Structures and Improvements

FPL proposed a change in curve from S1 to R1.5, an increase in the ASL from 38 to 50 years, and a decrease in net salvage, from 0 percent to (10) percent. OPC proposed an L0 curve, an increase in the ASL to 56 years, and an increase in net salvage from 0 to 25 percent.

OPC witness Pous contended that his curve is a better fit through the first 10.5 years of life. (TR 1929) As discussed above, staff believes that FPL's curve fitting technique is appropriate; therefore, staff recommends the R1.5 curve.

OPC argued that its proposal to increase the ASL to 56 years is "conservative." (OPC BR 52) According to OPC witness Pous, FPL "understates the realistic and reasonable ASL for this account." (TR 1929) Witness Pous contended that because this account contains ten buildings comprising approximately 64 percent of the investment, an ASL longer than FPL's proposed ASL is "well warranted." (TR 1930) OPC witness Clarke asserted that the ten buildings "also include ancillary components such as roofs, air conditioning, lighting systems, etc." (TR 2810) Staff agrees that the ASL should be increased and believes that an increase to 50 years is moderate and supportable.

With regard to net salvage, OPC argued that over 40 percent of the investment is in FPL's two largest office complexes, and that the trend in commercial real estate is capital appreciation, not depreciation. (TR 1979; OPC BR 52) OPC witness Pous asserted that the negative net salvage derives from retirements of building components, such as roofs. (TR 1979) FPL witness Clarke asserted that assets such as roofs are what FPL expects to retire in the future. (TR 2828) Witness Clarke contended that "substantial appreciation" in real estate has not occurred in Florida since 2005. Witness Clarke also asserted that if FPL were to retire any of these buildings, they would "probably be worthless as-is, without improvements." (TR 2829) Only the land would have value, according to witness Clarke; however, the land is owned by shareholders who do not receive return of their capital through rates. (TR 2829) Staff believes that FPL makes a more persuasive case; however, staff believes that FPL's view of the net salvage for this account is unnecessarily bleak. Accordingly, staff recommends a net salvage of (5) percent.

Account 392.10 – Transportation – Automobiles

FPL proposed a small change in the curve, from L3 to L2, a decrease in average service life from eight to six years, and an increase in net salvage from 10 to 15 percent. None of the intervenors offered a proposal for this account.

According to FPL witness Clarke, FPL personnel "mentioned the lives of automobiles were getting shorter in recent years," and Company records confirmed that, showing "automobiles were sold after 6 years." (EXH 115, p. 675) Also, according to witness Clarke, the cost of removal is 0 while salvage is "around 15 percent," representing an increase in salvage. (EXH 115, p. 675) Staff believes the L2 curve, six-year ASL, and 15 percent net salvage are reasonable.

Account 392.20 – Transportation – Light Trucks

FPL proposed a change in curve from S3 to L3, no change in the nine-year ASL, and no change to the 15 percent net salvage. None of the intervenors offered a proposal for this account.

FPL witness Clarke's actuarial analysis resulted in lives of around eight and one half to nine years. (EXH 115, p. 682) FPL personnel confirmed that eight to nine years is the life for light trucks. (EXH 115, p. 682) According to witness Clarke, the curve "should be changed to

Date: December 23, 2009

reflect the life analysis results.” (EXH 115, p. 682) Witness Clarke asserted that although the gross salvage showed a “slight increase,” the net salvage (cost of removal is 0) should remain at 15 percent because the increase may result from “one year of suspect data.” (EXH 115, p. 682)

After reviewing the salvage data, staff agrees that the indicated increase in salvage may be the result of bad data. Even if the increase is not because of bad data, staff believes it is premature to increase the net salvage. Therefore, staff believes that the L3 curve, nine-year ASL, and 15 percent net salvage are reasonable.

Account 392.30 – Transportation – Heavy Trucks

FPL proposed no change in the S3 curve, an increase in the ASL from 11 to 12 years, and an increase in net salvage from 10 percent to 15 percent. None of the intervenors offered a proposal for this account.

FPL witness Clarke based his increased life proposal on both actuarial analysis and information from FPL personnel. (EXH 115, p. 688) According to witness Clarke, a salvage analysis showed increasing salvage and no cost of removal. (EXH 115, p. 688) Staff believes that it is reasonable to retain the S3 curve, increase the ASL to 12 years, and increase the net salvage to 15 percent.

Account 392.40 – Transportation – Tractor Trailers

FPL proposed a change in curve from S2 to L2.5, a decrease in the ASL from 11 to nine years, and a decrease in net salvage from 15 to 0 percent. None of the intervenors offered a proposal for this account.

According to witness Clarke, actuarial analysis showed a nine-year life, which was confirmed by FPL personnel. (EXH 115, p. 695) Witness Clarke asserted that an L2.5 curve and a nine-year life “better reflect [the] life analyses.” (EXH 115, p. 695) No cost of removal or gross salvage has been recorded for this account since 2000; therefore, witness Clarke recommended a net salvage of 0 percent. (EXH 115, p. 695)

Staff believes that the L2.5 curve and a nine-year ASL are reasonable. Staff agrees that decreasing the net salvage from 15 to 0 percent is appropriate since there has not been any cost of removal or gross salvage recorded since 2000.

Account 392.90 – Transportation – Trailers

FPL proposed a small change in the curve, from L2 to L1, an increase in the average service life from 18 to 20 years, and a decrease in net salvage from 30 to 15 percent. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, FPL personnel informed him that these trailers last between 15 to 25 years. (EXH 115, p. 700) The actuarial analysis showed lives of about 20 years, with a low order curve. (EXH 115, p. 700) Staff believes an L1 curve and ASL of 20 years are reasonable.

Date: December 23, 2009

Witness Clarke's net salvage proposal stems from an analysis that showed "very little salvage and no removal costs being recorded in the past few years." (EXH 115, p. 700) Witness Clarke averred that the "estimate of 30 percent net salvage is too high and should be decreased." (EXH 115, p. 700) Staff notes that gross salvage has varied widely since 2001. (EXH 115, p. 704) Staff believes that it is premature to reduce the net salvage; therefore, staff recommends that the 30 percent net salvage be retained.

Account 396.10 – Power Operated Equipment – Transportation

FPL proposed a small change in curve, from L0 to L0.5, an increase in the ASL from nine to 10 years, and no change in the 20 percent net salvage. None of the intervenors offered any proposal for this account.

FPL witness Clarke proposed the increase in the ASL based on the actuarial analysis and information from FPL personnel. (EXH 115, p. 707) Witness Clarke testified that there is no cost of removal; however, gross salvage data "does not look good for [the] last five years." (EXH 115, p. 707) Prior to the last five years, gross salvage averaged around 20 percent. (EXH 115, p. 707) Witness Clarke's proposal is to retain the current 20 percent net salvage. Staff agrees the salvage data is problematic; thus, staff believes that retaining 20 percent net salvage is reasonable. Staff also believes that the L0.5 curve and 10-year ASL are reasonable.

Account 396.80 – Other Power Operated Equipment

FPL proposed a change in curve from S1 to L0.5, no change in the nine-year ASL, and no change in the 20 percent net salvage. None of the intervenors offered any proposal for this account.

Witness Clarke proposed the curve change based on his actuarial analysis. (EXH 115, p. 713) According to witness Clarke, no cost of removal or salvage data has been recorded since 2000. (EXH 115, p. 713) Witness Clarke proposed that this account use the same net salvage as Account 396.1, Power Operated Equipment, i.e., 20 percent, "[u]ntil the data is reviewed." (EXH 115, p. 713) The current net salvage for this account is 20 percent. Staff believes the L0.5 curve, nine-year ASL, and 20 percent net salvage are reasonable.

Account 397.80 – Communications Equipment – Fiber Optics

FPL proposed no change in the L0 curve, no change in the 10-year ASL, and a decrease in net salvage from five to 0 percent. None of the intervenors offered any proposal for this account.

According to FPL witness Clarke, there was "insufficient data to perform an actuarial life analysis." (EXH 115, p. 718) Witness Clarke noted that the fiber optic equipment in this account was "spun off" in 2000; the remaining investment is the electronics equipment. (EXH 115, p. 718) Therefore, witness Clarke recommended no change in the curve or average service life. Witness Clarke asserted that the data for the salvage analysis is "erratic and missing many years." (EXH 115, p. 718) He recommended ignoring the salvage data and using 0 percent net salvage "until data is revised." (EXH 115, p. 718)

After reviewing the cost of removal and salvage data, staff agrees with witness Clarke that the data should be ignored. Staff agrees with FPL's proposal to reduce the net salvage to 0 for this account. Staff also believes it is reasonable to retain the L0 curve and 10-year ASL.

Amortizations

General Accounts

Pursuant to Rule 25-6.04361(5)(f), F.A.C., certain General Plant Accounts may use an amortization schedule. FPL proposed to amortize these accounts in accordance with the rule. (EXH 115, p. 479) Under FPL's proposal, there will be no change to the depreciation accrual. (EXH 115, p. 479) None of the intervenors offered a proposal for these accounts. The proposed amortizations are shown in Table 19D-1:

Table 19D-1: General Account Amortizations

Account No.	Account Name	Amortization Period (Years)
391.10	Office Furniture	7.0
391.20	Office Accessories	5.0
391.30	Office Equipment	7.0
391.40	Duplicating & Mailing Equipment	7.0
391.50	EDP Equipment	5.0
391.70	PC Equipment (ECCR)	3.0
391.90	Personal Computer Equipment	3.0
392.70	Transportation Equipment – Marine	5.0
393.10	Stores Equipment – Handling Equipment	7.0
393.20	Stores Equipment – Storage Equipment	7.0
394.20	Shop Equipment – Portable Handling	7.0
395.20	Lab Equipment – Portable	7.0
395.60	Laboratory Testing Equipment (LMS)	5.0
397.20	Communications Equipment – Other 7-Yr Amrt	7.0
397.30	Communications Equipment – Official	7.0
397.40	Communication Equipment (ECCR)	5.0
398.00	Miscellaneous Equipment	7.0

Other Accounts

Pursuant to Order No. PSC-05-0902-S-EI, issued on September 14, 2005, in Docket No. 050188-EI, four other amortizations were permitted. The other amortizations are contained in Table 19D-2:

Table 19D-2: Amortizations for Other Accounts

Account No.	Account Name	Amortization Period (Years)
362.90	Substation Equipment – LMS	5.0
367.50	UG Conduct & Dev., Cable Injection–20+ Years	29.0(*)
367.90	UG Conduct & Dev., Cable Injection–10 Years	10.0

Account No.	Account Name	Amortization Period (Years)
371.20	Residential Load Management	5.0

*Per Order No. PSC-94-1199-FOF-EI, issued on September 30, 1994, in Docket No. 931231-EI, the 20-year guaranteed cable injection is to be recovered over the remaining life of the cable. The remaining life shown is the proposed remaining life.

In this proceeding, FPL proposed to continue using the previously-approved amortizations. (EXH 115, p. 479) None of the intervenors offered any proposal for these accounts. The only change to the depreciation accrual will be for Account 367.50, which by Commission order is tied to the remaining life of the cable. (EXH 115, p. 479) Therefore, staff recommends that the amortizations contained in Tables 19D-1 and 19D-2 be approved.

CONCLUSION

Staff recommends the remaining life, net salvage percent, allocated reserve percent, amortizations, and resulting rates for each transmission, distribution, and general plant account contained in Table 19D-3.

Table 19D-3: Current Approved and Staff Recommended Parameters and Rates

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
TRANSMISSION PLANT							
350.2 Easements	31.00	0.00	2.3	58	0.00	22.67	1.3
352.0 Structures & Improvements	34.00	(10.00)	2.5	47	(15.00)	24.92	1.9
353.0 Station Equipment	25.00	5.00	2.8	29	(2.00)	28.05	2.6
353.1 Station Equipment - Step-Up	24.00	5.00	3.0	25	0.00	28.57	2.9
354.0 Towers & Fixtures	28.00	(15.00)	2.5	34	(15.00)	39.81	2.2
355.0 Poles & Fixtures	29.00	(50.00)	3.6	33	(50.00)	37.50	3.4
356.0 OH Conductors & Devices	32.00	(45.00)	3.2	35	(50.00)	38.30	3.2
357.0 Underground Conduit	27.00	0.00	1.8	40	0.00	33.33	1.7
358.0 Undg. Conductors & Devices	16.40	0.00	2.6	40	(10.00)	36.67	1.8
359.0 Roads & Trails	33.00	0.00	2.1	47	(10.00)	30.46	1.7
DISTRIBUTION PLANT - DEPRECIABLE							
361.0 Structures & Improvements	34.00	(15.00)	2.6	50	(15.00)	19.17	1.9
362.0 Station Equipment	28.00	(10.00)	2.8	33	(10.00)	25.58	2.6
364.0 Poles, Towers & Fixtures	23.00	(40.00)	4.0	27	(60.00)	49.23	4.1
365.0 Overhead Conductors & Devices	23.00	(50.00)	4.2	30	(60.00)	42.93	3.9
366.6 Undg. Conduit, Duct	38.00	(10.00)	2.3	59	(2.00)	16.03	1.5
366.7 Undg. Conduit, Direct Buried	29.00	0.00	2.3	40	0.00	20.00	2.0
367.6 Undg. Conductors & Devices, Duct	30.00	(5.00)	2.7	29	0.00	23.68	2.6
367.7 Undg. Conductors & Devices, Buried	19.00	0.00	2.4	18.4	0.00	47.43	2.9
368.0 Line Transformers	20.00	(35.00)	4.8	22	(25.00)	41.67	3.8
369.1 Services, Overhead	23.00	(60.00)	4.6	36	(85.00)	46.25	3.9
369.7 Services, Underground	24.00	(10.00)	3.1	26	(5.00)	33.16	2.8
370.0 Meters	21.00	(30.00)	4.0	24	(30.00)	43.33	3.6
370.1 AMR Meters	NA	N/A	0.0	19.2	(30.00)	5.20	6.5
371.0 Installations on Customer's Premises	8.70	(15.00)	6.2	22	(20.00)	32.00	4.0
373.0 Street Lighting & Signal Systems	12.10	(35.00)	6.1	22	(20.00)	32.00	4.0
GENERAL PLANT - DEPRECIABLE							
390.0 Structures & Improvements	24.00	0.00	2.7	36	(5.00)	29.40	2.1
392.1 Transportation - Automobiles	4.10	10.00	14.5	3	15.00	42.50	14.2
392.2 Transportation - Light Trucks	3.80	15.00	11.8	4.6	15.00	41.56	9.4
392.3 Transportation - Heavy Trucks	4.30	10.00	11.7	5	15.00	49.58	7.1
392.4 Transportation - Tractor-Trailers	5.40	15.00	9.5	2.6	0.00	71.11	11.1
392.9 Transportation - Trailers	9.60	30.00	5.1	11.9	30.00	28.35	3.5
396.1 Power Operated Equipment (Transp.)	5.10	20.00	10.6	6.3	20.00	29.60	8.0
396.8 Other Power Operated Equipment	3.30	20.00	4.8	5.2	20.00	33.78	8.9
397.8 Commun. Equipment - Fiber Optics	7.00	5.00	9.2	7.7	0.00	23.00	10.0

Table 19D-3: Amortization Items

Account Number and Description	CURRENT APPROVED			STAFF RECOMMENDED			
	Average Remaining Life	Net Salvage	Remaining Life Rate	Average Remaining Life	Net Salvage	Theoretical Reserve	Remaining Life Rate
	(yrs.)	(%)	(%)	(yrs.)	(%)	(%)	(%)
DISTRIBUTION - AMORTIZABLE							
362.9 Substation Equipment - LMS	5.00	0.00	20.0	5 Year Amortization			
367.5 UG Cable Injection - 20+ Year	NA	NA	3.31	29 Year Amortization			
367.9 UG Cable Injection - 10 year	10.00	0.00	10.0	10 Year Amortization			
371.2 Residential Load Management	5.00	0.00	20.0	5 Year Amortization			
GENERAL PLANT - AMORTIZABLE							
391.1 Office Furniture	7.00	0.00	14.3	7 Year Amortization			
391.2 Office Accessories	5.00	0.00	20.0	5 Year Amortization			
391.3 Office Equipment	7.00	0.00	14.3	7 Year Amortization			
391.4 Duplicating & Mailing Equipment	7.00	0.00	14.3	7 Year Amortization			
391.5 EDP Equipment	5.00	0.00	20.0	5 Year Amortization			
391.7 PC Equipment (ECCR)	3.00	0.00	33.3	3 Year Amortization			
391.9 Personal Computer Equipment	3.00	0.00	33.3	3 Year Amortization			
392.7 Transportation Equip. - Marine	5.00	0.00	20.0	5 Year Amortization			
393.1 Stores Equip. - Handling Equip.	7.00	0.00	14.3	7 Year Amortization			
393.2 Stores Equip. - Storage Equipment	7.00	0.00	14.3	7 Year Amortization			
394.2 Shop Equip. - Portable Handling	7.00	0.00	14.3	7 Year Amortization			
395.2 Lab Equipment - Portable	7.00	0.00	14.3	7 Year Amortization			
395.6 Lab. Testing Equip. (LMS)	5.00	0.00	20.0	5 Year Amortization			
397.2 Comm. Equip. - Other 7-Yr Amort	7.00	0.00	14.3	7 Year Amortization			
397.3 Comm. Equipment - Official	7.00	0.00	14.3	7 Year Amortization			
397.4 Communication Equip. (ECCR)	5.00	0.00	20.0	5 Year Amortization			
398.0 Miscellaneous Equipment	7.00	0.00	14.3	7 Year Amortization			

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 the resulting imbalances?

Recommendation: Using the life and salvage parameters staff recommends in Issues 19C and 19D, a reserve surplus of \$1.2 billion results. (P. Lee)

Position of the Parties

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.

OPC: FPL currently has a depreciation reserve excess of \$2.7 billion. This amount is based on acceptance of OPC witness Jacob Pous' adjustments to FPL's depreciation study. It does not take into account OPC's and Mr. Pous' position that the life spans that FPL assigns to combined cycle units are too short; modifying those values to more realistic life spans in this proceeding would increase the size of FPL's depreciation reserve excess.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL's position that the FPL theoretical reserve imbalances total \$1.245 billion as submitted to the Commission by FPL in its depreciation study filed in March 2009.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: FPL's depreciation reserve excess is at least \$1.245 billion.

FRF: Agree with OPC that FPL has a depreciation reserve surplus of \$2.74 Billion.

SFHHA: FPL currently has a depreciation reserve imbalance of at least \$1.245 billion.

Staff Analysis:

PARTIES' ARGUMENTS

The theoretical reserve is the calculated balance that would be in the reserve if the life and salvage estimates now considered appropriate had always been applied. The book reserve is the amount actually recovered to date. The difference between the theoretical reserve and the book reserve is a reserve imbalance. (FPL BR 63; OPC BR 6; FRF BR 34-35) If the calculated theoretical reserve is more than the book reserve, the imbalance is a reserve deficit. If the calculated theoretical reserve is less than the book reserve, the imbalance is a reserve surplus. (OPC BR 6; FRF BR 34-35)

Applying its proposed depreciation life and salvage parameters, FPL calculated a reserve surplus of \$1.245 billion. (EXH 115, p. 53; FPL BR 9) OPC calculated a reserve surplus of

Date: December 23, 2009

\$2.75 billion based on its proposed depreciation parameters. (OPC BR 7) FIPUG witness Pollock did not calculate a theoretical reserve imbalance using his proposed depreciation parameters but accepted FPL's calculation as a minimum amount. (TR 2941-2942; FIPUG BR 23) AG and FRF did not submit testimony but adopted OPC's position. (AG BR 8; FRF BR 32) AIF supported FPL's position that the calculated reserve surplus is \$1.245 billion. (AIF BR 16) Based on FPL's theoretical reserve calculation, SFHHA asserted that the reserve surplus is at least \$1.245 billion. (SFHHA BR 37) No other party took a position with respect to the difference between FPL's book reserve and the calculated theoretical reserve.

ANALYSIS

The formula for the prospective theoretical reserve is provided in Rule 25-6.0436(4)(k), F.A.C. Using this formula and the life and salvage components staff recommends in Issues 19C and 19D, staff calculates a reserve imbalance of \$1,208.8 million, as shown in Table 19-1 below:

Table 19-1: Reserve Imbalance	
	(\$000)
Steam Production	353.1
Nuclear Production	127.0
Other Production	119.6
Transmission	12.1
Distribution	555.6
General	41.4
Total Reserve Imbalance	1,208.8

CONCLUSION

Using the life and salvage parameters staff recommends in Issues 19C and 19D, a reserve surplus of \$1.2 billion results.

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

Recommendation: Staff recommends that each account's book reserve be brought to its calculated theoretically correct level. Staff recommends that \$314.2 million of the bottom line reserve surplus of \$1,208.8 million be used to offset the unrecovered costs associated with the capital recovery schedules of near-term retiring investments recommended in Issue 19A. For the remaining reserve surplus of \$894.6 million, staff recommends that \$500 million be amortized over a 4-year period, with the remaining \$394.6 million amortized over the remaining life of the embedded investments of 22 years. Such actions result in an annual depreciation expense credit of \$142.9 million and debit to the bottom line reserve surplus. As part of FPL's next depreciation study, to be filed no later than March 16, 2013, FPL's reserve position will be reviewed and assessed for any other action. (P. Lee, Maurey)

Position of the Parties

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.

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.

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.

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.

Continuation of the remaining life depreciation methodology is the appropriate disposition of FPL's depreciation reserve imbalances.

OPC: FPL's enormous depreciation reserve excess means it has over-collected depreciation expense from current customers. Its \$2.7 billion surplus constitutes a massive intergenerational inequity. The Commission should rectify this cumulative inequity to the extent consistent with the dual objectives of achieving fairness to current customers while maintaining FPL's financial integrity. FPL's proposal to return the excess over a remaining plant life of about 22 years is woefully inadequate to address the severity of the inequity. OPC estimates that there will be a

Date: December 23, 2009

50% turnover in residential customers during that period. FPL should be required to amortize \$1.25 billion of its reserve excess back to customers over a period of four years. Limiting the amount of the overall \$2.7 billion excess to be amortized to \$1.25 billion will leave a thick “cushion” of reserve excess that will protect FPL until the next study.

The Commission should consider the extent to which it can reverse the pattern of overcollection of depreciation expense while maintaining FPL’s strong financial integrity. It should also consider the timing of FPL’s next depreciation study. The period of four years, when coupled with identifying \$1.25 billion as the amount to be amortized, satisfies these criteria. See also OPC’s position on Subissue 34.

If the Commission adopts all OPC’s recommendations in these consolidated dockets, including the recommendation to amortize \$1.25 billion of FPL’s reserve excess over four years and OPC’s overall strong financial integrity. In his testimony and exhibits, OPC witness Daniel J. Lawton demonstrates that FPL would continue to display the financial parameters and indicators typical of an “A” rate electric utility.

AFFIRM: No position.

AG: Adopt OPC’s position.

AIF: AIF supports FPL’s position that the FPL theoretical reserve surplus should be addressed through the Commission’s long standing policy of using the remaining life depreciation methodology. Such use decreases annual revenue requirements by \$216 million.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The Commission should require FPL to continue to book the \$125 million depreciation expense, to cease contributions to the fossil dismantlement fund and to use a portion of the depreciation surplus to offset the \$314 million of accelerated capital recovery.

FRF: Agree with OPC that the Commission should require FPL to amortize, as a credit to depreciation expense, FPL’s estimated depreciation surplus of \$1.245 Billion over the next 4years. This will have the result of reducing FPL’s revenue requirements by \$311 Million per year (gross) and \$291 Million per year (net).

SFHHA: The depreciation reserve surplus should be amortized to ratepayers as a reduction of depreciation expense over no more than 5 years.

Staff Analysis: This issue addresses what actions, if any, should be taken to remedy the reserve imbalance quantified in Issue 19E. All witnesses appeared to agree that the remaining life depreciation rate methodology will resolve any reserve imbalance over the remaining life by adjusting the prospective depreciation rate. (Davis TR 6399; Pous TR 1983; Pollock TR 3068-3069; OPC BR 6; FIPUG BR 23-25; SFHHA BR 38-39) The issue in contention is whether the reserve imbalance should be corrected over a period of time shorter than the average remaining life.

PARTIES' ARGUMENTS

FPL

FPL calculated a theoretical reserve surplus of \$1.245 billion. (FPL BR 9; EXH 115, p. 53) FPL argued that the surplus should be addressed through the remaining life rate design, rather than "accelerating" the recovery over a short period of time as suggested by the intervenors. (FPL BR 9) FPL argued that a short amortization of the reserve surplus 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." (FPL BR 9) FPL suggested that a middle path would be to transfer a portion of the reserve surplus to offset the expenses associated with its proposed capital recovery schedules. FPL argued that this action could provide "a measure of shorter-term relief for customers without doing as much damage to regulatory practices and future customers' pocketbooks." (FPL BR 9-10)

FPL witness Deason asserted that theoretical reserve imbalances are not uncommon and that the Commission has typically relied on the remaining life method to address reserve imbalances. (TR 6673-6674, 6739) FPL witness Davis testified that concerns regarding intergenerational inequities are mitigated by the fact that at no time when the theoretical reserve surplus accumulated did FPL increase customer rates. (TR 6404-6405) Witness Davis explained that FPL's base rate revenues were decreased by \$350 million in 1999 and by another \$250 million in 2002.⁴⁸ (TR 6405) Accordingly, no incrementally increased rates were paid by current customers that now warrant an "accelerated" amortization. FPL argued that the existing theoretical reserve surplus reduced revenue requirements in the instant case by \$216 million. (FPL BR 56) FPL witness Davis asserted that the intervenors' recommended amortization of the reserve surplus would cause, rather than correct, intergenerational inequities, thereby leading to unavoidable customer rate increases of up to \$478 million for future customers. (TR 6400; EXH 360) FPL argued in its brief that the intervenors' stated preference to reduce customer rates now only to pay more later was illogical during a period when bills were going down in the near term anyway. (FPL BR 56)

FPL witness Deason testified that the theoretical reserve is an estimate, based on what is believed to be the appropriate depreciation life and salvage values, when compared to actual booked amounts. (TR 6673) Witness Deason explained that the reserve imbalance will change every time depreciation rates are revised, reflecting changes in the perception of the future. (Davis TR 6402) Witness Davis asserted that the existence of a reserve imbalance does not indicate that customers have been overcharged, it simply indicates that assumptions have changed. (TR 6402) 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. (TR 6431-6432) FPL argued in its brief that significant capital expenditures will continue to be made to maintain and improve its nuclear

⁴⁸ Order Nos. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI, In re: Petition by the Citizens of the State of Florida for a full revenue requirements rate case for Florida Power & Light Company, and PSC-02-0501-AS-EI, issued April 11, 2002, in Docket Nos. 001148-EI, In re: Review of the retail rates by Florida Power & Light Company and 020001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

units, yet none of those future costs are considered in determining the theoretical reserve. (FPL BR 63-64)

FPL argued in its brief that the Commission has consistently approved the application of the remaining life methodology to address reserve imbalances. (FPL BR 64) FPL witness Davis asserted that recovering the reserve surplus over the remaining life will benefit customers by reducing revenue requirements, while also providing a hedge against uncertainties such as early plant retirements due to events like hurricanes, technology changes, and climate legislation. (TR 6403)

FPL asserted that the intervenors' proposed amortization of the reserve surplus to reduce near term expenses for customers is misleading. FPL argued that the intervenors' proposals ignore the following consequences: 1) rate base would increase, on which customers would have to pay a return; 2) less cash flow would force FPL to go to the market to raise more debt and more equity; and 3) the quality of FPL's earnings would deteriorate. (Pimentel TR 4968-4970) Moreover, it would increase the risk of stranded costs from premature retirements. (Davis TR 6408-6409)

FPL also asserted that longer-term revenue deficiencies would directly result when the intervenors' proposed amortization ceases. (Davis TR 6398) The required rate increases would significantly exceed the total short-term savings recommended by the intervenors. (TR 6398) FPL argued that the interest in amortizing the reserve surplus over a short period of time rather than the remaining life appears to have more to do with reducing customer rates in the short term than with depreciation accounting. (FPL BR 65) FPL witness Davis asserted that each intervenor's recommendation would lead to rate shock in the future:

- OPC's \$233 million rate reduction in 2010 would result in a \$399 million rate increase in 2014;
- FIPUG's \$125 million rate reduction in 2010 would result in a \$234 million rate increase in 2014; and
- SFHHA's \$249 million rate reduction in 2010 would result in a \$415 million rate increase in 2015.

(TR 6400; EXH 360)

As illustration, FPL witness Davis noted that about \$300 million of the Company's current base rate increase is due to the \$125 million annual depreciation expense credit that was booked in accord with the 2005 rate case stipulation. (TR 6471) Therefore, FPL argued, the intervenors' recommendations would create, rather than correct, any alleged intergenerational inequities. The fact that future customers will pay more than they otherwise would due to the short amortization of the reserve surplus significantly weakens the intergenerational inequity arguments of the intervenors. (FPL BR 66)

Finally, FPL argued that the Commission orders cited by the intervenors as support for their amortization of the reserve surplus are not applicable to the circumstances of FPL's reserve surplus. (Davis TR 6421-6426) FPL witness Deason asserted that only in unique circumstances,

and often outside a base rate proceeding, has the Commission deviated from the remaining life method to correct reserve imbalances. (TR 6725) In the 1990s, to position FPL for potential deregulation and competition, the Commission allowed FPL to record additional depreciation expense using accruals which were revenue-based to reduce the potential for stranded investments. (Deason TR 6731-6732) As a result of a settlement agreement in 2002, the Commission allowed FPL to record an optional depreciation expense credit of up to \$125 million per year for the period of the agreement. The need for the credit was caused by the previous deviation from the remaining life method. In neither case did customers' base rates change. (Deason TR 6736-6738)

FPL argued in its brief that the orders for which OPC requested the Commission take official recognition of purportedly in support of its position, demonstrate that the Commission has consistently adhered to the remaining life approach for prospective retirements while approving short amortizations for known past retirements. (See FPL BR 67 for Order Numbers) In this docket, FPL proposed capital recovery schedules to address depreciation deficits associated with known retirements when they are replaced or upgraded before their otherwise useful lives and the remaining life method to address the reserve surplus applicable to future retirements. (FPL BR 67)

FPL witness Deason asserted that the Commission has historically relied on three broad principles when establishing depreciation rates:

- Matching costs and benefits
- Protecting customers for the long term
- Separating the setting of depreciation rates and customer rates.

(TR 6676) The witness testified that the Commission has not allowed impacts on customer rates to be the primary driver in setting depreciation rates. This has had the advantage of promoting greater objectivity in setting depreciation rates. Depreciation rates should be established in accord with generally accepted depreciation practices, not according to their impact on customer rates. (Deason TR 6677) FPL concluded that 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 the Commission's established principles, especially when customer rates are being reduced anyway. (FPL BR 68)

OPC

OPC argued that FPL's identified reserve imbalance of \$1.25 billion is of such magnitude that an approach other than the normal average remaining life rate design is warranted. (OPC BR 7) While OPC witness Pous calculated a reserve surplus of \$2.75 billion using his proposed life and salvage values, he recommended that only FPL's identified reserve surplus be amortized over four years. (TR 1808) The remaining surplus would serve to mitigate the impact on FPL's cash flow and provide a cushion to be addressed in FPL's next depreciation study. (OPC BR 60) OPC submitted that amortizing the reserve surplus represented the most appropriate remedy to eliminate the intergenerational inequity the surplus created. (OPC BR 60)

OPC argued that a reserve imbalance violated the matching principle.⁴⁹ Also, the existence of a reserve imbalance indicated that there are intergenerational inequities in that current and past customers paid more than they should have, thereby subsidizing future customers. (OPC BR 6; Pous TR 1826) OPC contended that whether the remaining life methodology was adequate to address reserve imbalances depended on the magnitude of the imbalance and the time frame over which it would be corrected. (OPC BR 7, 57) In this case, OPC argued that FPL's reserve imbalance was so great that recovery over the remaining life (22 years) was inadequate. (OPC BR 7, 59; TR 1833)

OPC argued that under the remaining life methodology, any reserve imbalance is reflected in the undepreciated balance that is divided by the remaining life of the plant. Any reserve surplus or deficiency will be corrected over the applicable remaining life. In this sense, the remaining life methodology is self-correcting over time. (OPC BR 57)

OPC argued that its proposed amortization would not deny FPL recovery of any of its capital and would not affect FPL's earnings or its earned rate of return. The amortization would affect only the timing of recovery by repositioning a portion into future periods so that future customers would pay more of their fair share. Also, the amortization would reduce test year depreciation expense thereby lowering revenue requirements and customer rates. (OPC BR 60)

OPC recognized that a credit to depreciation expense as it proposed would reduce FPL's cash flow and that FPL needed to generate sufficient cash flow to cover its expenses, including debt service. In selecting the portion of the reserve surplus to amortize and the length of the amortization period, OPC considered that coverage ratios (the number of times FPL's generated cash flow would cover debt service) were important indicators of financial integrity. OPC witness Lawton concluded that if OPC's recommended amortization and all other rate case adjustments were adopted, FPL's financial indicators would continue to be in the range that warranted an A rating by Standard & Poor's. (TR 2343-2345; EXH 442; OPC BR 60-61)

OPC argued that measures other than the remaining life approach have been approved and adopted in the past to address reserve imbalances. (OPC BR 64) OPC noted that in some cases the portion of the reserve imbalance attributable to past insufficient estimates of life and salvage parameters was distinguished from the deficiencies associated with changes in prospective life and salvage values. The portion of the reserve imbalance associated with past misestimates was recovered over a period of time shorter than the remaining life. (OPC BR 61) Another method noted by OPC was correction of reserve imbalances through the use of reserve transfers. A surplus existing in a given account was transferred to offset a deficiency existing in another account. Another method used to address reserve imbalances was to identify individual accounts with reserve surpluses and transfer some or all of the surpluses to accounts within the same functional area having identified reserve deficiencies. (OPC BR 61-62)

OPC noted that in the 1990s, FPL was allowed to accelerate depreciation by about \$1 billion in anticipation of potential deregulation and competition by applying a specified increment of revenues to write down assets. OPC argued that this measure had nothing to do

⁴⁹ The matching of the period of time over which depreciation expense is collected with the service life of the group of assets is called the matching principle. Customers benefitting from the assets should be those who pay for the assets. (TR 1826)

with the normal remaining life methodology.⁵⁰ Subsequently, when the potential for deregulation dissipated, FPL recognized it had overdepreciated its plant, and two settlements were approved that resulted in FPL crediting depreciation expense by \$125 million per year for eight years. (OPC BR 63-64)

Responding to FPL's arguments that an amortization of the reserve imbalance would increase rate base and customer's rates in the long term, OPC countered that these arguments overlook that past customers have paid more than their fair share of depreciation expense so FPL's rate base is artificially reduced from the level it should be in accord with the matching principle. Moreover, the depreciation rates approved would increase the reserve each year, thereby reducing rate base. More significantly, growth in sales and customers would result in the increased revenue requirements associated with a higher rate base to be spread over a greater number of billing determinants, thus reducing the impact on customer bills. (OPC BR 64-65; TR 6473) Finally, OPC argued that FPL ignored a customer's individual discount rate, or time value of money, in assessing how the increased revenue requirements associated with amortization of the reserve surplus would be viewed by customers. (OPC BR 65)

Whether the reserve imbalance is a surplus or a deficit, OPC argued that they both violate the matching principle, represent a subsidy, and should be corrected over a short period of time. (OPC BR 66)

AIF

AIF argued in its brief that FPL's position regarding correcting the reserve surplus should be approved. AIF contended that FPL witness Deason explained why the Commission departed from using the remaining life to recover reserve imbalances when the state considered deregulation and companies were positioning themselves for a competitive environment. Further, AIF argued that reversing depreciation expenses would reduce cash available and result in increased customer rates. AIF also argued that the intervenors' proposals would "not reallocate company funds that would reduce the amount requested in the base rate increase before the Commission." (AIF BR 17)

AG

The AG did not present any arguments in its brief regarding treatment of FPL's identified reserve surplus. However, the AG supported the position espoused by OPC. (AG BR 8)

FIPUG

FIPUG witness Pollock proposed that \$314.3 million of FPL's reserve surplus be applied to offset the Company's unrecovered investments associated with its capital recovery schedules. The witness also proposed that FPL continue to record the \$125 million annual credit to depreciation expense until the next depreciation study review. The witness asserted that these actions would still leave about a \$0.5 billion reserve surplus. (TR 2950-2951)

⁵⁰ Order No. PSC-97-0499-FOF-EI, issued April 29, 1997, in Docket No. 970410-EI, In re: Proposal to extend plant for recording of certain expenses for years 1998 and 1999 for Florida Power & Light Company.

FIPUG asserted that FPL's calculated reserve surplus existed even after the Company had recorded a \$500 million depreciation expense credit as a result of the FPL 2005 Settlement, approved in Order No. PSC-05-0902-S-EI.⁵¹ (FIPUG BR 23) FIPUG witness Pollock asserted that FPL's surplus meant that current ratepayers have paid a disproportionate share of the assets consumed to provide utility services. (TR 2942)

FIPUG witness Pollock contended that FPL's reserve surplus of \$1.2 billion demonstrated that action was needed to restore intergenerational equity. For this reason, witness Pollock proposed that FPL be required to continue to record a \$125 million annual depreciation expense adjustment until the next depreciation study filing. (TR 2950-2951) Together with his recommendation to offset the unrecovered costs associated with FPL's proposed capital recovery schedules with a portion of the reserve surplus, and assuming that FPL's next depreciation study is filed in 2012, witness Pollock stated that the book reserve would be reduced by an additional \$749 million. Witness Pollock asserted that this would still leave nearly \$0.5 billion in reserve surplus. (TR 2950-2951)

FIPUG argued in its brief that its proposal regarding FPL's reserve surplus was similar to previous actions taken by the Commission to correct reserve deficiencies. Such adjustments, FIPUG stated, should apply to reserve surpluses as well. (FIPUG BR 24) As support for FIPUG's position, witness Pollock referenced a number of Commission orders that he contended reflect the amortization of reserve imbalances over periods shorter than the remaining life. (Pollock TR 2951; FIPUG BR 24) In the instant case, FIPUG argued that the economic crisis facing Florida supported the need to use FPL's reserve surplus "to permit Florida electric consumers, businesses and residents alike, to keep more money in their collective pockets now, during these dire economic times." (FIPUG BR 25)

FRF

FRF did not offer testimony in this case, but did provide arguments in its brief. FRF supported the OPC position that \$1.25 billion of the reserve surplus that OPC calculated for FPL should be amortized over four years. (FRF BR 37) The remaining surplus of \$1.5 billion would be left in place so as to avoid too big an impact on FPL's cash flow and would be addressed at the time of FPL's next depreciation study filing. (FRF BR 38)

Given the magnitude of FPL's calculated reserve surplus, FRF asserted that correction over the remaining life would not restore intergenerational equity in a meaningful manner. (FRF BR 37) FRF argued that the Commission's declared policy with respect to reserve imbalances is to correct them as soon as possible without adversely impacting a company's ability to earn a fair and reasonable return.⁵² (FRF BR 35) FRF argued that the record evidence demonstrated that this policy should be followed, thereby reducing FPL's rate request by about \$291 million annually. (FRF BR 32, 35)

⁵¹ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket Nos. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, and 050188-EI, In re: 2005 comprehensive depreciation study by Florida Power & Light Company. (2005 Settlement)

⁵² Order No. PSC-01-2270-PAA-EI, issued November 19, 2001, in Docket No. 010699-EI, In re: Request for approval of implementation date of January 1, 2002, for new depreciation rates for Marianna Electric Division by Florida Public Utilities, p. 2.

FRF asserted that a reserve surplus indicated that the utility had collected more than it needed to collect at a given point in time. Conversely, a reserve deficiency indicated that the collection had not been sufficient. (FRF BR 35) Under the remaining life methodology, the reserve is subtracted from the undepreciated balance, and the result is divided by the remaining life of the associated plant. In this manner, any imbalance in the reserve is recovered over the remaining asset lives. Thus, the remaining life methodology is self-correcting. However, the correction is over the remaining lives of the related assets, and for FPL, that would be 22 years. (FRF BR 35) FRF contended that the magnitude of FPL's reserve surplus and intergenerational inequity compelled correction over a period shorter than the remaining life. (FRF BR 37)

FRF noted that in the past, overearnings have been used to record additional depreciation expense to correct depreciation reserve deficiencies, rather than providing refunds to customers. (FRF BR 35) FRF argued that any suggestion that a theoretical reserve deficiency or surplus is not real money should be rejected. (FRF BR 35)

Regarding financial integrity, FRF asserted that metrics used to analyze financial integrity generally include measures of debt, cash flow, and interest coverage requirements. (FRF BR 39) FRF argued that OPC's proposed amortization would not deny FPL recovery of any capital dollars, but would only affect the timing of the collection of those dollars. Further, FRF argued that OPC's proposed amortization would not affect FPL's earnings or earned rate of return. (FRF BR 39)

FRF conceded that the coverage ratios (the number of times FPL's generated cash flow covers debt service) were important indicators of financial integrity. FRF argued that OPC demonstrated that FPL's financial indicators would continue to be in the range that would warrant an "A" rating from Standard & Poor's. (FRF BR 40) FRF stated that FPL's financial strength is such that FPL's cash flow would be sufficient to amortize \$1.25 billion of the reserve surplus identified by OPC witness Pous and maintain coverage ratios that warrant an "A" rating by Standard & Poors. (FRF BR 40)

FRF argued that FPL's opposition to OPC's amortization was meritless. Contrary to FPL's assertion that remaining life is the Commission's policy for correcting reserve imbalances, FRF asserted that OPC offered 31 orders demonstrating that the Commission had treated reserve imbalances in a way other than through the remaining life rate design. While most of the orders involved reserve deficiencies, FRF argued that should not matter. Whether the imbalance is a deficit or a surplus, treatment should be the same. (FRF BR 41)

FRF argued that FPL's proposed recovery schedules for near-term retirements contradicted its position regarding amortization of the reserve surplus. While FPL proposed four-year recovery periods for these net investments, it proposed the remaining life to correct the reserve imbalance. (FRF BR 41)

Finally, FRF argued that FPL's assertions opposing OPC's proposed amortization of the reserve surplus were based on the effect of increased rate base and increased customer rates several years from now. (FRF BR 42) FRF alleged that FPL's assertions overlooked that (1) past customers paid more than their fair share, so FPL's rate base is artificially low; (2) continued application of depreciation rates will increase the reserve thereby reducing rate base in each year of the amortization; and (3) to the extent customers are added and sales are increased, the billing

determinants will be spread over a larger base, thus lessening the impact on individual bills. (FRF BR 42)

SFHHA

SFHHA argued that FPL should amortize its calculated reserve surplus of \$1.245 billion over a five-year period. (SFHHA BR 38) SFHHA asserted that the magnitude of the calculated surplus demonstrated that FPL's past depreciation rates were excessive, considering present expectations regarding depreciation parameters. (Kollen TR 3155-3156)

ANALYSIS

As noted previously, the FPL, OPC, and FIPUG witnesses appeared to agree that the remaining life depreciation methodology recovers the net remaining investment over the average remaining life of the associated assets. (FPL BR 64; Pous TR 1820; Pollock TR 2941) The FPL, OPC, FIPUG, and SFHHA witnesses also appeared to agree that:

- a reserve surplus of at least \$1.245 billion exists based on the theoretical reserve calculation. (EXH 115, p. 53; Pous TR 1807; Pollock TR 2942; Kollen TR 3154)
- the reserve surplus serves to reduce FPL's future depreciation expenses. (Davis TR 6403; Pous TR 1832-1833, 2038; Pollock TR 2941; Kollen TR 3155)

FPL proposed that the reserve imbalance be recovered over the remaining life of its plant (22 years). OPC proposed that \$1.25 billion of its calculated reserve surplus be amortized over four years. OPC proposed that the amortization should be first applied to offset the unrecovered costs associated with FPL's proposed capital recovery schedules for near-term retirements. The remaining balance would reduce FPL's revenue requirements. (TR 1808)

Staff believes the crux of this issue is whether the reserve imbalance should be corrected over the remaining life or a shorter period of time. To this end, FPL contended that the remaining life approach to resolve reserve imbalances is the norm and there is no reason to deviate. (TR 6399, 6403-6406) OPC, FIPUG, and FRF asserted that the magnitude of the reserve imbalance warrants a corrective approach other than the normal remaining life depreciation approach. (Pous TR 1805; Pollock TR 2942; FRF BR 44) SFHHA did not address the magnitude of the surplus, but asserted that it should be amortized over a short period of time. (Kollen TR 3155)

Amortization of the reserve surplus will serve to decrease the reserve over the amortization period, thus increasing rate base. At the time of FPL's next depreciation review, its reserve positions will be lower, thereby resulting in higher depreciation rates, all other things remaining equal. Indeed, OPC recognized that depreciation rates in the instant proceeding are higher due to the lower reserve position resulting from the \$500 million depreciation credit the Company recorded during the years 2005-2009, in accord with the FPL 2005 Rate Case Settlement Order. (TR 1810-1811) However, as noted by witness Pous, FPL's calculated theoretical reserve is lower by \$500 million.

The relative adequacy of the reserve causes the remaining life rate formula to self-adjust for historic over- or under-recovery, as well as for changes in projected life or salvage parameters. Staff believes that a reserve imbalance indicates a failure of the matching principle. The depreciation expenses of the past were misstated, so correction should be made now to reduce the misstatement into the future. Correction of the imbalance will result in a return to the matching principle.

Intergenerational Inequity

The intervenors claimed that the existence of FPL's reserve imbalance indicates that past and current customers have paid more than their fair share of depreciation expenses and that future customers will therefore pay less than their fair share. (Lawton TR 2292-2293; Pous TR 1807; Pollock TR 2950; FRF BR 42; Kollen TR 3155) In contrast, FPL contended that intergenerational inequity concerns are mitigated by the fact that customer rates were not increased during the time when the reserve surplus accumulated. (Davis TR 6403-6405, 6546)

Staff believes that the very presence of a reserve imbalance indicates the existence of an intergenerational inequity. Based on what is known today, the life estimates of yesterday are now viewed as being too short. FPL has lengthened the life span estimates for its production plants. Net salvage estimates have changed. Does that mean that past life and salvage estimates were wrong? Staff believes it does not. Disregarding that settlements were reached in 2002⁵³ and 2005⁵⁴ that addressed depreciation and many other matters, the last time the Commission actually conducted a thorough review and analysis of FPL's depreciation parameters was in Order No. PSC-99-0073-FOF-EI, issued January 8, 1999, in Docket No. 971660-EI, In re: 1997 depreciation study by Florida Power & Light Company. Conditions, Company plans, and regulatory requirements change. OPC witness Pous acknowledged that depreciation parameters change over time simply because depreciation is a projection of anticipated events in the future. (TR 1804) FRF recognized in its brief that in a depreciation study review, a goal has been to align the actual and theoretical reserve positions for all accounts. (FRF BR 32)

Staff agrees with FPL witness Deason and OPC witness Pous that it is unlikely there would ever be a time when there is no reserve imbalance, simply because as time passes, more information is known and hopefully better estimates of life and salvage can be determined. (Deason TR 6673-6674; Pous TR 1804-1805) That said, staff believes that is no reason for not taking some action to correct reserve imbalances, where possible, either through reserve transfers or an amortization. Staff also believes the magnitude of the reserve imbalance should dictate what action is taken. Staff believes that the matching principle argues for a quick correction of any surplus; the quicker the better in order that the ratepayers who may have overpaid would have a chance of benefitting. This has been accomplished in the past through reserve transfers between accounts.

⁵³ Order No. PSC-02-0501-AS-EI, issued April 11, 2002, in Docket Nos. 001148-EI, In re: Review of the retail rates of Florida Power & Light Company, and 020001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor. (2002 Settlement)

⁵⁴ Order No. PSC-05-0905-S-EI, issued September 14, 2005, in Docket Nos. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, and 050188-EI, In re: 2005 comprehensive depreciation study by Florida Power & Light Company. (2005 Settlement)

Staff agrees with FPL that current and future customers will receive the benefit of the existing reserve surplus through lower depreciation rates. If the reserve surplus is reduced, the depreciation reserve will increase, thereby, all things remaining equal, causing depreciation rates and future revenue requirements to naturally increase.⁵⁵ At the present time, staff believes it can be argued that the current reserve surplus results in prospective depreciation rates that are artificially low. This is the beauty or the beast of the remaining life rate methodology. A surplus means that under present expectations more than enough has been recovered, so there is a smaller amount left to be recovered over the average remaining life. Conversely, the presence of a reserve deficit means that not enough has been recovered to date, so the depreciation rate must increase to make up the difference in the future. (TR 1828, 1804-1805)

The remaining life rate typically carries the burden of correcting any reserve imbalance. A significant reserve imbalance can distort resulting depreciation rates. For example, an account with a 40-year average service life, 20-year average remaining life, zero percent net salvage, and 80 percent reserve would result in an average remaining life rate of 1.0 percent. This is due to the fact that the reserve should theoretically be 50 percent rather than 80 percent. The surplus in the reserve results in a remaining life depreciation rate being lower than it otherwise would be to correct the surplus over the remaining life. If the account reserve is restated to its theoretically correct level, the resulting depreciation rate is 2.5 percent. Thus, the presence of the reserve surplus depresses the resulting depreciation rate from 2.5 percent to 1.0 percent. The more significant the reserve surplus, the more depressed the resulting remaining life rate will be.

Previous Commission Orders Regarding Reserve Imbalances

Intervenors contended that past Commission orders support a position that reserve imbalances have historically been recovered over a period of time that is shorter than the average remaining life. (Pous TR 1827-1828; Pollock TR 2951; OPC BR 61-62, 64; FRF BR 35-36) FPL, on the other hand, contended that the orders referenced by the intervenors are not applicable to FPL's circumstances. (TR 6421-6426) FPL witness Davis also asserted that none of the actions in the referenced orders had any impact on customer rates. (TR 6424)

The existence of a negative reserve caused by plant retiring earlier than the related average service life creates a positive component in rate base upon which the Company is allowed to earn a return until it is corrected. Staff believes that negative reserves reflect an overstatement of rate base. FPL agrees with this proposition and has proposed capital recovery schedules to address unrecovered net investments associated with the planned near-term retirement of the Cape Canaveral and Riviera power plants, the St. Lucie and Turkey Point nuclear uprate projects, and the AMI meter project. (EXH 115, pp. 55-57)

Staff agrees with OPC witness Pous that whether the imbalance is a deficiency or a surplus, the rate base is misstated and should be corrected. (TR 2047) By design, the remaining life rate self-adjusts and corrects any reserve imbalance over the remaining life of the associated plant. Historically, the Commission has addressed reserve imbalances through the use of reserve transfers or allocations. (TR 1826) For electric companies, in light of possible cross-subsidies between functions, the Commission has limited transfers to between accounts within the same

⁵⁵ About \$300 million of FPL's current base rate increase is due to the \$125 million annual depreciation expense credit that was recorded in accord with the 2005 FPL Rate Case Settlement Order. (TR 6471)

function. In other words, transfers are only made between accounts within the production function, transfers between accounts within the transmission function, and so on. (TR 6421)

In the 1990s, the Commission allowed FPL to record additional depreciation expense to reduce the potential for stranded investments. In 1995, FPL was authorized to record \$126 million in additional depreciation expenses to the reserve for nuclear production. Additionally, for 1996 and 1997, FPL was permitted to record an additional \$30 million in expense to the reserve for nuclear production, and to record an additional depreciation expense based on differences between actual and forecasted revenues.⁵⁶ FPL was allowed to continue the recording of these additional expenses in 1998 and 1999 by Order No. PSC-98-0027-FOF-EI.⁵⁷ The Commission found that it was good regulatory policy to eliminate these types of items when the funds are available to do so without raising customer rates.

Subsequently, in the FPL 1999 Revenue Sharing Agreement approved by Order No. PSC-99-0519-AS-EI, the Commission granted FPL, among other things, the discretion to record up to \$100 million of additional depreciation expense each year of the three-year settlement period to reduce nuclear and/or fossil production plant in service.⁵⁸ As part of this settlement, customer rates were reduced by \$350 million and a revenue cap and revenue sharing plan was established.

As a result of the FPL 2002 Settlement, approved in Order No. PSC-02-0501-AS-EI, FPL received the discretionary ability to record a depreciation expense credit of up to \$125 million annually for 2002-2005.⁵⁹ The amounts recorded first went to offset the \$170.3 million bottom line amortization recorded pursuant to Order No. PSC-99-0519-AS-EI, with any additional amounts recorded to a bottom line reserve to be allocated to specific accounts in the next FPL depreciation study after the term of the settlement. Among other things, the settlement reduced FPL's customer rates by \$250 million and continued a revenue cap and revenue sharing plan. Staff notes that FPL admitted that it had overdepreciated its plant and a depreciation expense credit offered through the settlement would help correct the situation. (EXH 539)

In the 2005 Settlement, approved in Order No. PSC-05-0905-S-EI, FPL was again authorized to amortize up to \$125 million annually as a credit to depreciation expense and a debit to the bottom line depreciation reserve for years 2006-2009.⁶⁰ FPL recorded \$500 million in accord with the agreement.

⁵⁶ Order Nos. PSC-95-0672-FOF-EI, issued May 31, 1995, and PSC-96-0461-FOF-EI, issued April 2, 1996, in Docket No. 950359-EI, In re: Petition to establish amortization schedule for nuclear stranded investment by Florida Power & Light Company.

⁵⁷ Order No. PSC-98-0027-FOF-EI, issued January 5, 1998, in Docket No. 970410-EI, In re: Proposal to extend plan for recording of certain expenses for years 1998 and 1999 for Florida Power & Light Company.

⁵⁸ Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI, In re: Petition by the Citizens of the State of Florida for a full revenue requirements rate case for Florida Power & Light Company.

⁵⁹ Order No. PSC-02-0501-AS-EI, issued April 11, 2002, in Docket Nos. 001148-EI, In re: Review of the retail rates of Florida Power & Light Company, and 020001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor. (2002 Settlement)

⁶⁰ Order No. PSC-05-0905-S-EI, issued September 14, 2005, in Docket Nos. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, and 050188-EI, In re: 2005 comprehensive depreciation study by Florida Power & Light Company. (2005 Settlement)

FRF argued in its brief that the Commission's declared policy with respect to reserve imbalances is to correct them as soon as possible without adversely impacting a company's ability to earn a fair and reasonable return.⁶¹ (FRF BR 35) FRF noted that the Commission also targeted overearnings in the past to book additional depreciation expense, thereby lowering reported earnings and bringing them in line with the allowed rate of return. (FRF BR 35) In the instant proceeding, the Commission is setting a new rate of return for FPL. Staff believes that in deciding whether to amortize the reserve imbalance as the intervenors proposed, the Commission should also consider any negative impacts such an amortization would have on FPL's financial integrity.

Financial Integrity

OPC's proposed adjustment to address the reserve imbalance will reduce FPL's revenue requirement by approximately \$311 million per year. (Lawton TR 2297) Because rate base will be higher as a result of this adjustment, the reduction to FPL's cash flow will be offset by approximately \$20 million of additional return earned on this incremental rate base. (TR 2296) Thus, the net impact of the proposed adjustment is a reduction to cash flow of approximately \$291 million. (TR 2296) The financial metrics affected by the proposed adjustment are the cash from operations to interest ratio (CFO/Interest) and the cash from operations to debt ratio (CFO/Debt). (Lawton TR 2300-2301; EXH 254) The debt to total capital ratio is unaffected by the proposed adjustment. (Lawton TR 2301) FPL's corporate credit rating is single A flat from Standard and Poor's Rating Service (S&P), single A1 from Moody's Investor Service (Moody's), and single A flat from Fitch Ratings (Fitch). (Pimentel TR 4829) Pursuant to S&P's rating methodology, FPL's business profile is rated as excellent and its financial profile is rated as intermediate. (TR 5143; EXH 507) Based on these designations, the ratings criteria published by S&P and Moody's for FPL's current credit ratings include the following cash flow metric standards.

Table 19F-1

	<u>S&P A rating</u>	<u>Moody's A rating</u>
CFO/Interest	3.0x – 4.5x	4.5x – 6.0x
CFO/Debt	25% – 45%	22% – 30%

(EXH 254; EXH 440; EXH 509, p. 17)

OPC witness Lawton testified that, while the proposed adjustment to address the reserve imbalance will decrease FPL's cash flow metrics, he did not believe it will harm the Company's financial integrity. (TR 2306; EXH 254) Witness Lawton demonstrated that FPL's CFO/Interest ratio will decrease from 6.7x to 5.9x and the Company's CFO/Debt ratio will decrease from 45 percent to 40 percent. (EXH 254) That said, this analysis does not take into account additional adjustments that will impact cash flow. (Lawton TR 2301) However, witness Lawton argued that even if all of OPC's proposed adjustments were made, there is no basis to conclude that FPL's credit rating would fall below investment grade. (TR 2345)

⁶¹ Order No. PSC-01-2270-PAA-EI, issued November 19, 2001, in Docket No. 060699-EI, In re: Request for approval of implementation date of January 1, 2002, for new depreciation rates for Marianna Electric Division by Florida Public Utilities, p. 2.

FPL witness Pimentel agreed that even a two-notch downgrade for FPL would still result in a triple B plus rating, which would remain firmly investment grade. (TR 5053) Moreover, none of the rating agencies have indicated that they would downgrade FPL's credit rating even if the entire rate increase was denied by the Commission. (TR 5051) However, witness Pimentel testified that there is value to customers in maintaining a *financially strong utility*. (TR 4871) He cautioned the Commission regarding the negative impact the intervenors' proposal would have on the financial strength of the Company. (TR 4872-4873) Specifically, he stated that returning the entire reserve imbalance over four years as recommended by the intervenors would weaken the Company's cash-flow metrics and thus increase its cost of capital, would increase the Company's need to access external capital to fund its construction program, and would lead to a significant spike in customer rates in the future. (TR 4873, 4968-4970, 6745)

While there is no one key financial metric that determines a particular rating, the cash flow ratios discussed above are helpful in evaluating a company's financial integrity and liquidity for assessing its credit quality. (Lawton TR 2300) By itself, the proposed adjustment would not lower FPL's financial metrics below the standards required for its current credit rating. (Lawton TR 2301; EXH 254) However, this will not be the only adjustment made in this case that will impact the Company's cash flow. (Lawton TR 2301) While the record shows that the proposed adjustment in isolation would not reduce FPL's cash flow metrics below the levels necessary to support its current rating, it was not demonstrated that the same could be said if all of the intervenors' proposed adjustments were taken together. Moreover, staff does not believe the litmus test should be whether FPL can maintain an investment grade rating. (TR 4894-4895) As discussed in Issue 71, it has been demonstrated that a position of financial strength benefits customers as well as the Company. (TR 4871) In addition, Moody's has specifically stated that it is more concerned with the cash flow that will come out of this decision than the authorized ROE. (TR 4791) Thus, if the Commission determines that departing from the remaining life methodology is appropriate in this instance, staff recommends a more measured return of the reserve imbalance be considered. FPL has been booking a depreciation credit of \$125 million every year since the 2002 Settlement was approved by the Commission in Order No. PSC-02-0501-AS-EI.⁶² Because the investment community is familiar with this treatment, staff believes flowing back an annual amount more on the order of \$100 million to \$125 million would be viewed less negatively by the investment community.

Recommendation

Staff believes that where significant reserve surpluses and deficits exist, corrective reserve transfers between accounts should be considered and made where possible. In this case, however, the net reserve imbalance is a surplus, a \$1.2 billion surplus. Staff believes that in circumstances such as this, amortization of the reserve imbalance should be considered. (EXH 534) Staff submits that FPL's reserve surplus is of such a magnitude that its existence results in abnormal depreciation rates.

Staff calculated a theoretical reserve for each account within each production unit, and each transmission, distribution, and general plant account. Comparing the theoretical reserve to the book reserve resulted in various account surpluses and deficits that staff netted to a bottom

⁶² Order No. PSC-02-0501-AS-EI, issued April 11, 2002, in Docket No. 001148-EI, In re: Review of the retail rates of Florida Power & Light Company, (2002 Settlement).

line reserve surplus amount of \$1.2 billion. As a result of this netting, each account's reserve is placed at its theoretically correct position. The theoretically correct reserve position is reflected in the staff recommended depreciation rates contained in Table 19C-2 and Table 19D-3.

Staff recommends that \$314.2 million of the reserve surplus be transferred to offset the unrecovered costs associated with FPL's proposed capital recovery schedules addressed in Issue 19A. For the remaining reserve surplus amount of \$894.6 million, staff recommends that \$500 million be amortized over a four-year period and the remaining amount of \$394.6 million be amortized over the remaining life of the embedded investments (22 years). This action will result in an annual depreciation expense credit of \$142.9 million with a debit to the bottom line depreciation reserve surplus.

At the time of FPL's next depreciation study, to be filed no later than March 16, 2013, the reserve position will be reviewed. The Commission can consider whether amortization of the \$894.6 million remaining surplus should continue, the amount of the imbalance should change, or the amortization should cease.

FPL argued that amortization of the reserve surplus over any time period other than the remaining life results in intergenerational unfairness to the ratepayers of yesterday versus those of tomorrow. FPL's future rate base will be higher resulting in higher revenue requirements and higher customer rates in the future. Staff believes that intergenerational unfairness already exists, as witnessed by the existence of such a significant reserve imbalance. The only question remaining is how long should it take to correct the situation?

Staff's recommendation represents an approach not as aggressive as the intervenors proposed while not being as conservative as that proposed by FPL. Staff would note that FPL has demonstrated over the last eight years that it has and can record a depreciation expense credit of \$125 million; this is equivalent to the amount staff is recommending be amortized over four years. Although staff is also recommending an additional annual credit of \$17.9 million, this amount is effectively equal to what is being recovered in the depreciation rates proposed by each party.⁶³

CONCLUSION

Staff recommends that each account's book reserve be brought to its calculated theoretically correct level. Staff recommends that \$314.2 million of the bottom line reserve surplus of \$1,208.8 million be used to offset the unrecovered costs associated with the capital recovery schedules of near-term retiring investments recommended in Issue 19A. For the remaining reserve surplus of \$894.6 million, staff recommends that \$500 million be amortized over a 4-year period, with the remaining \$394.6 million amortized over the remaining life of the embedded investments of 22 years. Such actions result in an annual depreciation expense credit of \$142.9 million and debit to the bottom line reserve surplus. As part of FPL's next depreciation study, to be filed no later than March 16, 2013, FPL's reserve position will be reviewed and assessed for any other action.

⁶³ The reserve surplus is inherent in the reserve position included in the calculation of remaining life depreciation rates proposed by each party.

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

Recommendation: The implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules should be January 1, 2010. (Ollila)

Position of the Parties

FPL: The implementation date should be January 1, 2010.

OPC: January 1, 2010.

AFFIRM: No position.

AG: January 1, 2010.

AIF: AIF supports FPL position of January 1, 2010.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: January 1, 2010.

FRF: Agree with OPC.

SFHHA: The implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules should correspond with the implementations of rates resulting from this proceeding.

Staff Analysis:

PARTIES' ARGUMENTS

AIF argued that the implementation date should be what was presented by FPL "throughout the hearing and other presentation of evidence." (AIF BR 18) No other party presented an argument in support of its position.

ANALYSIS

Staff notes that OPC, AG, AIF, FIPUG, and FRF agreed with FPL's proposed January 1, 2010 implementation date. Staff disagrees with SFHHA's proposed implementation date. Staff believes that the implementation date for the revised depreciation rates, capital recovery schedules, and amortization schedules should be January 1, 2010 because FPL data and related calculations about the January 1, 2010 date.

CONCLUSION

The implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules should be January 1, 2010.

Issue 20: Intentionally Blank

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

Ruling: Subsumed in Issue 19A.

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

Ruling: Subsumed in Issue 19C.

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

Ruling: Subsumed in Issue 19C.

Issue 24: and 19D What are the appropriate depreciation rates?

Ruling: Subsumed in Issues 19C and 19D.

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

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

Ruling: Subsumed in Issue 19C.

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

Ruling: Subsumed in 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?

Ruling: Subsumed in Issue 19C.

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

Ruling: Subsumed in 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?

Ruling: Subsumed in 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?

Ruling: Subsumed in Issue 19C.

Date: December 23, 2009

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

- a. 350.2 Transmission Easements
- b. 353 Transmission Substation Equipment
- c. 353.1 Transmission Substation Equipment Step-Up Transformers
- d. 354 Transmission Towers & Fixtures
- e. 356 Transmission Overhead Conductor
- f. 359 Transmission Roads and Trails
- g. 362 Distribution Substation Equipment
- h. 364 Distribution Poles, Towers & Fixtures
- i. 365 Distribution Overhead Conductors
- j. 367.6 Underground Conductors
- k. 367.7 Distribution Underground Conductions and Devices-Direct Buried
- l. 368 Distribution Line Transformers
- m. 369.7 Distribution Services-Underground
- n. 370 Distribution Meters
- o. 373 Distribution Street Lighting and Signal Systems
- p. 390 General Plant Structures
- q. 392.01 General Plant Aircraft-Fixed Wing
- r. 392.-2 General Plant Aircraft-Rotary Wing

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

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

Rulings: Subsumed in Issue 19D.

Issue 32: 19D, and 131 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?

Ruling: Subsumed in Issues 19C, 19D, and 131.

Issue 33: Intentionally Blank

Issue 34: Intentionally Blank

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

Ruling: Subsumed in 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?

Ruling: Subsumed in 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?

Ruling: Subsumed in Issue 19F.

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

Ruling: Subsumed in Issue 19F.

Issue 39: Intentionally Blank

FOSSIL DISMANTLEMENT COST STUDY

Issue 40: Should the currently approved annual dismantlement provision be revised?

Recommendation: Yes. Staff recommends that the current-approved annual dismantlement provision be revised to reflect the company's updated base cost estimates of dismantlement, inflation rates, and contingency costs. Any revised annual fossil dismantlement accrual should take effect January 1, 2010. (Higgins)

Position of the Parties

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

OPC: Yes. FPL's quantification represents a worst case scenario for terminal net salvage. The Commission should substitute the more reasonable value proposed by OPC. At a minimum, the Commission should revisit the extreme assumptions that drove FPL's estimate in the next study or in a general proceeding.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

The Company's position is that its 2008 fossil dismantlement study supports the \$5.8 million net increase to its currently-approved fossil dismantlement accrual. (FPL BR 70) In her testimony, FPL witness Ousdahl argued that FPL's dismantlement costs that the company actually incurred, compare favorably to prior dismantlement estimates. Accordingly, the FPL witness cited the dismantlement of Ft. Lauderdale fossil Units 4 and 5 in 1992. Witness Ousdahl stated that while the estimated cost to dismantle these plants was \$8.9 million, the actual costs of dismantlement in order to re-power the units was \$9.8 million. Witness Ousdahl concluded that FPL underestimated the cost of dismantling Ft. Lauderdale fossil Units 4 and 5 by approximately \$900,000. (TR 3672)

FPL witness Ousdahl further argued that the Company's estimated costs of partial dismantlement in order to re-power a generating unit are in line with actual costs. As an example, Witness Ousdahl referred to FPL's Ft. Myers steam Units:

FPL's estimate of the cost to dismantle the Ft. Myers steam units and common facilities was \$20.7 million, of which \$5.4 million was for Unit 1 and \$9.3 million for Unit 2, totaling \$14.7 million. The actual cost for partial dismantlement (of Units 4 and 5 steam supply systems) in order to re-power the two units was \$12.9 million. This evidence demonstrates that in a partial dismantlement scenario, the company expended 88 percent of the full dismantlement estimate. (TR 3672)

Staff notes that OPC witness Pous referred to fossil dismantlement as terminal net salvage. While witness Pous did not propose any specific adjustments be made to FPL's dismantlement study, he recommended that the commission should "order the Company to perform a well documented analysis of different approaches and probabilities of end of life termination of generating facilities." However, witness Pous offered that if the Commission decides that FPL's fossil dismantlement study should be modified in this proceeding, then the Commission should order FPL to reduce its overall fossil dismantlement costs by 60%. (TR 1889)

OPC witness Pous also argued that assuming a "reverse construction" approach is unreasonable. Witness Pous describes "reverse construction" as assuming the Company will dismantle a generating facility piece by piece, including removing foundations and underground piping. (TR 1883) However, other than the use of controlled blasting for dismantlement, the OPC witness does not discuss any other alternative demolition techniques that he thinks FPL should consider using.

FPL witness Ousdahl argued that the company's cost estimates associated with fossil dismantlement assume total demolition, using heavy equipment, and employing the most efficient methods possible. (TR 3670) She stated that FPL employs the use of controlled explosions where appropriate. (TR 3671)

FIPUG witness Pollock recommends that the Commission order FPL to "cease contributions to the dismantlement fund," but he offers no discussion of FPL's study. (TR 2952) Staff notes that Affirm, AIF, South Daytona, FEA, SFHAA, SCU-4 and Unger took no position on this issue. Parties supporting OPC's position are the AG, FIPUG, and FRF. FPL and OPC are the only parties that filed testimony on this issue.

ANALYSIS

FPL's 2008 fossil dismantlement study (EXH 124) filed in this proceeding indicates there is a need to adjust FPL's current annual fossil dismantlement accrual, which is currently set at \$15,321,113. The current dismantlement study represents an update of FPL's base dismantlement costs, contingency, and inflation forecasts. FPL contends an annual accrual of \$20,180,368 is required to meet its fossil dismantlement needs. Staff's analysis and critique of FPL's 2008 fossil dismantlement study is contained in Issue 42.

Staff recommends a January 1, 2010, implementation date for any revised annual fossil dismantlement accrual to take effect. The chart below details FPL's fossil dismantlement cost by plant site.

Table 40-1

FOSSIL DISMANTLEMENT COST ESTIMATES		
	2007 Study Current Costs	2008 Study Current Costs
	(\$)	(\$)
Cape Canaveral	12,953,491	16,642,848
Cutler	8,035,610	10,424,803
Fort Lauderdale	18,956,572	25,524,535
Ft. Myers	22,877,762	29,598,540
Manatee	53,698,856	65,118,814
Martin	57,337,705	76,887,456
Port Everglades	52,594,168	61,149,529
Putnam	9,403,254	11,146,862
Riviera	13,583,544	15,070,232
Sanford	28,650,916	35,681,288
Scherer	37,391,063	43,744,940
St. Johns River Power Park	19,548,345	24,802,975
Turkey Point	18,323,729	25,825,396
West County Energy Center	-	22,707,813
DeSoto Solar	-	1,365,069
Space Coast Solar	-	724,875
St. Lucie Wind Turbines	-	584,770
Total*	353,355,015	467,000,745

* Cost estimate totals were subject to rounding for some of the plant site/units.

CONCLUSION

Staff recommends the current-approved annual dismantlement provision be revised to reflect the company's updated base cost estimates of dismantlement, inflation rates, and contingency costs. Any revised annual fossil dismantlement accrual should take effect January 1, 2010.

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

Recommendation: Staff recommends that the corrective reserve reallocations shown in Table 41-1 be approved. (Higgins)

Position of the Parties

FPL: The reserve re-allocations requested by FPL in its fossil dismantlement study should be approved.

OPC: See Issue 40.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: See Issue 40.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL requested that the Commission approve certain adjustments to its fossil dismantlement reserves. FPL proposed transfers be made from plants with reserve surpluses to plants with reserve deficiencies. These adjustments are contained in witness Ousdahl's exhibit KO-8, pp. 3-4 of 423. (EXH 124) Staff notes that no other party filed testimony on this issue.

Affirm, AIF, South Daytona, FEA, SFHAA, SCU-4, and Unger took no position on this issue. AG, FIPUG, and FRF agree with OPC, but OPC did not directly address this issue.

ANALYSIS

FPL's 2008 fossil dismantlement study contains proposed adjustments to correct reserve imbalances that exist for certain units. These imbalances arise when there are discrepancies between the actual dismantlement reserve and the theoretical reserve indicated in the dismantlement study. FPL proposed that reserve surpluses for the Cape Canaveral and Riviera plants be transferred to the Cutler, Manatee, Martin, Port Everglades, Sanford, Scherer, St. Johns River and Turkey Point plants. (EXH 124) Although FPL did not file updated reserve transfers,

staff was able to calculate the appropriate transfer amounts, which are shown in Table 41-1, including the companies updated inflation figures.

The Commission has consistently approved reserve transfers in fossil dismantlement studies. FPL's last reserve transfers were approved by Order No. PSC-08-0095-PAA-EI, issued on February 14, 2008, in Docket No. 070378-EI, In Re: Petition for approval of revised fossil dismantlement accrual by Florida Power & Light Company. Staff has reviewed FPL's proposed reserve transfers and, consistent with Commission precedent, believes they are reasonable. However, in Issue 42 staff recommends that FPL's dismantlement cost estimates be updated to reflect the February 2009 Global Insight inflation forecasts.

Table 41-1

THEORETICAL RESERVE RE-ALLOCATIONS FOR JANUARY 1, 2010				
Site	Actual Reserves December 31, 2009	Theoretical Reserves	Reserve Transfers	Restated Reserve for 1/1/2010
Cape Canaveral	\$17,654,087	\$16,970,239	\$(1,269,977)	\$16,384,110
Cutler	11,429,097	13,168,448	144,749	11,573,846
Manatee	36,930,092	46,480,891	794,816	37,724,908
Martin	35,623,068	39,988,999	363,331	35,986,399
Port Everglades	54,604,976	74,237,570	1,301,674	55,906,650
Riviera	18,943,435	15,349,799	(3,593,636)	15,349,799
Sanford	5,987,502	6,267,665	23,315	6,010,817
Scherer	30,939,801	42,933,155	998,085	31,937,886
St. Johns River	18,825,872	27,761,363	743,609	19,569,481
Turkey Point	17,216,106	23,152,609	494,034	17,710,140
Total Reserves*	\$248,154,036	\$306,310,738	\$0	\$248,154,036

* Reserve transfers were subject to rounding for some of the plant site/units.

CONCLUSION

Staff recommends that the corrective reserve reallocations shown in Table 41-1 be approved.

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

Recommendation: The appropriate system annual provision for dismantlement is \$18,468,387 (including solar), and the retail annual accrual amounts for 2010 is \$17,660,832 (excluding solar). This reflects an increase of \$2,640,568 over the amounts from FPL's last dismantlement study and results in adjustments to accumulated depreciation and depreciation expense. If applicable, the appropriate retail annual accrual amount for 2011 is \$17,666,354, which represents an increase of \$2,641,393 over the amount from FPL's last study and results in adjustments to accumulated depreciation and depreciation expense. These accruals reflect current estimates of dismantlement costs on a site-specific basis, inflation estimates as of February 2009, a 16 percent contingency factor, and changes in retirement dates in accord with staff's recommendation in Issue 19C. (Springer, Higgins)

Position of the Parties

FPL: The appropriate annual provision for dismantlement is \$21,567,577, based on the information presented in FPL's 2009 dismantlement filing.

OPC: See Issue 40.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: See Issue 40.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Based on its updated fossil dismantlement study, FPL asserted that the net cost to dismantle its fossil plants is approximately \$467 million. (EXH 124) FPL has proposed a levelized annual accrual for 2010-2014 of \$21,567,577 (system). (FPL BR 122; EXH 124) However, staff requested and received from FPL an updated levelized annual accrual for 2010-2014 of \$20,180,367 (system). (EXH 35, BSP 7340-7364) This amount was derived from the updated inflation factors provided by Global Insight, February 2009 edition. (EXH 35, BSP 7340-7364) The dismantlement costs for Martin Solar, Desoto Solar, and Space Coast Solar plants, totaling \$453,817, will be recovered through the Environmental Cost Recovery Clause (ECRC). (EXH 124)

OPC witness Pous did not recommend any specific adjustments to FPL's fossil dismantlement study. (TR 1889) However, he asserted that if the Commission does decide to address fossil dismantlement in this proceeding, then the Commission should reduce FPL's dismantlement costs by 60 percent. (TR 1889) The OPC witness stated that the 60 percent represents the approximate percentage difference between the dismantlement cost estimate assumed by Nevada Power Corporation (Nevada Power), and what a contractor ultimately charged to dismantle its facilities. (TR 1889)

FPL witness Ousdahl claims that the Nevada Power dismantlement cost estimate that OPC witness Pous cited was not a site-specific estimate, but rather an estimate to dismantle a generic fossil unit. The estimate also did not reflect current market pricing for scrap metals. (TR 3677) Witness Ousdahl claimed "the contrast between a 'reverse construction' estimate for demolition of a generic fossil generating station and the actual cost to dismantle the Nevada Power Company's generating station, appears to have no evidentiary relevance to FPL's dismantlement estimates." (TR 3677)

FIPUG witness Pollock recommended that the Commission order FPL to "cease contributions to the dismantlement fund," but offered no discussion of FPL's study. (TR 2952) AG, South Daytona, FIPUG, and FRF adopted the position of OPC. (AG BR 9; FIPUG BR 25; FRF BR 87) Affirm, AIF, FEA, and SFHAA took no position on this issue. (AIF BR 18; SFHAA BR 40)

ANALYSIS

By Order No. 24741,⁶⁴ the Commission established the methodology for accruing the costs for dismantlement of fossil-fueled production plants. The methodology, codified in Rule 25-6.04364, F.A.C., is dependent on three factors: estimated base costs for dismantlement, projected inflation, and a contingency factor. Electric companies are required to file site-specific dismantlement studies at least once every four years from the submission date of the previous study unless otherwise required by Commission order.

FPL filed its last updated dismantlement cost study with associated annual accrual proposals in 2007. The Commission approved this study and associated fossil dismantlement accruals by Order No. PSC-08-0095-PAA-EI.⁶⁵ In this order, FPL was also directed to file its next fossil fuel dismantlement study concurrently with its comprehensive depreciation study on or about March 17, 2009.

The dismantlement cost estimates in the current study are based on site-specific analysis and reflect an increase of approximately 32 percent from the 2007 cost estimates. The major drivers of the increase in cost include: (1) addition of new plant, (2) increases in the equipment rental component of labor rates, and (3) increased fuel oil tank removal costs. The dismantlement costs for Martin Solar, Desoto Solar, and Space Coast Solar plants will be recovered through the ECRC. (EXH 124)

⁶⁴ Order No. 24741, issued July 1, 1991, in Docket No. 890186-EI, In Re: Investigation of the Ratemaking and Accounting Treatment for the Dismantlement of Fossil-Fueled Generating Stations.

⁶⁵ Order No. PSC-08-0095-PAA-EI, issued February 14, 2008, in Docket No. 070378-EI, In re: Petition for approval of revised fossil dismantlement accrual by Florida Power & Light Company.

Dismantlement accruals are based on current cost estimates, escalated to future costs of the estimated date of dismantlement. The future costs, less accumulated dismantlement reserves, are discounted over the remaining life of each plant and plant site. The Commission established the methodology for calculating annual accruals for the dismantlement fossil-fueled production plants by Order No. 24741. FPL's fossil dismantlement study as filed contained August 2008 inflation factors and assumed dismantlement of plants will begin five years after retirement. Inflation rates are used to escalate the current costs to the expected future amount that will be needed to pay for dismantlement. Staff requested, and was provided, updated inflation factors to reflect current market rates. The updated inflation rates are from the February 2009 Global Insight edition.

Staff's recommended levelized annual accrual of \$18,468,387 (including solar) is based on FPL's site-specific dismantlement cost estimates and a 16 percent contingency factor, with two modifications. First, staff used the February 2009 inflation factors published by Global Insight for 2010 through 2013. Second, staff's analysis incorporated changes in the retirement dates of certain units in accord with staff's recommendations in Issue 19C. Staff applied the jurisdictional separation factors for 2010 to the levelized annual accrual of \$18,014,571 that excludes the solar units. The staff recommended retail annual accrual amount for 2010 is \$17,660,832 (excluding solar) which reflects an increase of \$2,640,568 over the amounts from FPL's last dismantlement study. If applicable, the appropriate retail annual accrual amount for 2011 is \$17,666,354, which represents an increase of \$2,641,393 over the amount from FPL's last study. Staff's calculations of the retail annual accrual amounts and incremental increase are shown in Table 42-1. FPL's 2008 site-specific dismantlement costs are shown in Table 42-2. Accordingly, this change to the fossil dismantlement annual accrual impacts the 2010 and 2011 accumulated depreciation and depreciation expense as set forth in Issues 51 and 131.

Table 42-1
2010 Projected Test Year – Staff Recommended

Functional Description	2007 Current Accrual	Required Increase in Cost of Service	Staff Recommended 2010 Annual Accrual
Fossil	\$8,966,504	\$755,421	\$9,741,745
Other Production excluding Solar	\$6,354,609	\$1,918,216	\$8,272,825
Total Excluding Solar	\$15,321,113	\$2,693,457	\$18,014,570
Jurisdictional Separation Factor		98.036379%	98.036379%
Retail Annual Accrual Amounts		\$2,640,568	\$17,660,832

2011 Projected Test Year – Staff Recommended

Functional Description	2007 Current Accrual	Required Increase in Cost of Service	Staff Recommended 2011 Annual Accrual
Fossil	\$8,966,504	\$755,421	\$9,741,745
Other Production excluding Solar	\$6,354,609	\$1,918,216	\$8,272,825
Total Excluding Solar	\$15,321,113	\$2,693,457	\$18,014,570
Jurisdictional Separation Factor		98.067024%	98.067024%
Retail Annual Accrual Amounts		\$2,641,393	\$17,666,354

Table 42-2

FLORIDA POWER AND LIGHT COMPANY EFFECTIVE ACCRUAL JANUARY 1, 2010			
Plant Site	2007 Current Annual Accrual**	Staff Final Recommended Annual Accrual	Final Change in Annual Accrual
	(\$)	(\$)	(\$)
Cape Canaveral	434,779	252,203	-182,576
Cutler	216,262	333,801	117,539
Fort Lauderdale	985,269	1,251,191	265,922
Fort Myers	1,161,985	1,317,305	155,320
Manatee	2,255,726	2,559,415	303,689
Martin	2,327,547	2,533,098	205,551
Port Everglades	2,566,987	2,802,360	235,373
Putnam	339,106	405,297	66,191
Riviera	321,232	89,182	-232,050
Sanford	1,374,909	1,493,396	118,487
Scherer	1,755,506	1,634,157	-121,349
St. Johns River Power Park	807,788	869,586	61,798
Turkey Point	774,017	1,111,193	337,176
Martin Solar	0	346,160	346,160
West County Energy Center	0	1,332,348	1,332,348
St Lucie Wind Turbines	0	30,038	30,038
DeSoto Solar	0	72,712	72,712
Space Coast Solar	0	34,944	34,944
Total Dismantlement Provision	*15,321,113	*18,468,387	3,147,274
Less accrual for solar units recovered through the ECRC clause			453,817
Increase in cost of service due to increase in non-solar dismantlement accrual			*** 2,693,457

* Annual accruals were subject to rounding for some of the plant site/units.

** Annual accrual per approved by Order No. PSC-08-0095-PAA-EI, issued on February 14, 2008, in Docket No. 070378-EI, In Re: Petition for approval of revised fossil dismantlement accrual by Florida Power & Light Company.

***Net increase in fossil dismantlement accrual.

CONCLUSION

The appropriate system annual provision for dismantlement is \$18,468,387 (including solar), and the retail annual accrual amounts for 2010 is \$17,660,832 (excluding solar). This reflects an increase of \$2,640,568 over the amounts from FPL's last dismantlement study. If applicable, the appropriate retail annual accrual amount for 2011 is \$17,666,354, which represents an increase of \$2,641,393 over the amount from FPL's last study. These accruals

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

reflect current estimates of dismantlement costs on a site-specific basis, inflation estimates as of February 2009, a 16 percent contingency factor, and changes in retirement dates in accord with staff's recommendation in Issue 19C.

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?

Recommendation: Yes. Staff believes that the assumptions made by FPL in its 2008 dismantlement study with regards to site restoration are reasonable. (Higgins)

Position of the Parties

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.

OPC: See Issue 40.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: Yes. AIF supports FPL's position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: See Issue 40.

FRF: No.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

In his testimony, OPC witness Pous objected to the extent of FPL's fossil dismantlement approach. He contended that FPL's dismantlement assumptions "assumed a 100% probability of the worst case scenario, that being full demolition and site restoration." (TR 1881) Witness Pous asserted that FPL is not legally required to restore its plant sites to a "greenfield" condition. (TR 1882)

During cross-examination, FPL witness Ousdahl stated she believed that site restoration in terms of greenfield means "park-like." (TR 3829) She cited the Company's dismantlement of its Palatka plant as an instance where site remediation was to green field status. (TR 3829)

AIF supports FPL's position. In its brief, AIF stated that FPL witness Ousdahl clearly described the cost components included in FPL's 2008 fossil dismantlement study. (AIF BR 18) AIF stated that intervenor witnesses Pous and Pollock provided no basis for the disallowance of FPL's 2008 fossil dismantlement study as presented, including site restoration to Greenfield

status upon retirement. (AIF BR 18) Affirm, South Daytona, FEA, SFHAA, SCU-4, and Unger took no position on this issue. AG and FIPUG support the position of OPC. FRF merely indicated "no" as its position on this issue.

ANALYSIS

Rule 25-6.04364, F.A.C., is the Commission's dismantlement rule. Of particular interest to this issue are subparts 2 (b) and (c):

(2)(b) "Dismantlement." The process of safely managing, removing, demolishing, disposing, or converting for reuse the materials and equipment that remain at the fossil fuel generating unit following its retirement from service and restoring the site to a marketable or useable condition.

(2)(c) "Dismantlement Costs." The costs for the ultimate physical removal and disposal of plant and site restoration, minus any attendant gross salvage amount, upon final retirement of the site or unit from service.

Staff believes that FPL's site restoration assumptions in its 2008 study comport with both the Commission's rule and Commission precedent in previous dismantlement proceedings. Accordingly, since they comply with the Commission rule, staff believes FPL's site restoration assumptions by definition are reasonable.

Staff believes that OPC witness Pous may be suggesting that the Commission should revisit the site restoration provisions of the Commission's dismantlement rule. If this is the case, staff notes that OPC at its option can file a petition requesting that the Commission to revisit Rule 25-6.04364.

CONCLUSION

Staff believes that the assumptions made by FPL in its 2008 dismantlement study with regards to site restoration are reasonable.

Date: December 23, 2009

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

Recommendation: Staff recommends that FPL consider in future studies whether alternative demolition approaches are reasonable, as it has in the past. However, at this time staff does not believe that FPL should be required to submit analyses of alternative demolition approaches with its next study. (Higgins)

Position of the Parties

FPL: FPL consistently considers the appropriateness of alternative demolition approaches in its dismantlement studies and will continue to do so in future dismantlement studies.

OPC: Yes. See Issue 40.

AFFIRM: No position.

AG: Yes.

AIF: AIF has no position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Staff notes that while OPC witness Pous does not recommend any adjustments to FPL's dismantlement study, he offered that if the Commission wishes to modify FPL's request, it should reduce overall dismantlement costs by 60%. The OPC witness stated that the 60% represents the approximate percentage difference between Nevada Power Corporation's dismantlement cost estimates and what a contractor ultimately charged to dismantle its facilities. (TR 1889)

Witness Pous claimed that the Company "has assumed a 100% probability of the worst case scenario, that being full demolition and site restoration." (TR 1881) In its brief, OPC claimed that "FPL's study fails to recognize less costly means of demolition that have already been employed elsewhere." OPC also claims that "FPL's request fails to recognize any potential of full or partial sale of the site or facilities." (OPC BR 74)

OPC witness Pous cited a recent case in Oklahoma where a projected cost of \$2 million was given by a "demolition estimator" to dismantle a 600 foot smoke stack. He claimed this

estimate included demolishing the smoke stack from the top down, in sections, with the debris falling into the center of the stack. The OPC witness stated that this approach is far more costly than exploding the stack base and letting the entire smoke stack "topple and break apart along a predefined fall line." The debris can then be gathered and disposed of more cheaply. (TR 1884)

Witness Pous concluded that:

..., I do recommend that the Commission order the Company to perform detailed and well documented analyses of the different approaches and probabilities of end of life termination for generating facilities. I further recommend that the Commission also order the Company to develop and fully justify the most cost efficient manner for any actual demolition cost approach that it determines to be appropriate. The study, with all analyses, work papers, etc., should be provided to the Commission no later than the Company's next depreciation or rate proceeding.
(TR 1889)

FPL witness Ousdahl asserted that FPL's assumptions do include the use of controlled blasting for chimneys. FPL has estimated the cost to dismantle smoke stacks at its Riviera and Cape Canaveral plants to be \$0.4 million each. Witness Ousdahl further cited FPL's experience using explosives to demolish a smoke stack at its Turkey Point plant, which also totaled \$0.4 million. (TR 3671)

FPL witness Ousdahl claimed that the Nevada Power Corporation dismantlement cost estimate that OPC witness Pous cited was not a site-specific estimate, but rather an estimate to dismantle a generic fossil unit. The estimate also did not reflect current market pricing for scrap metals. (TR 3677) The FPL witness further claimed that "the contrast between a 'reverse construction' estimate for demolition of a generic fossil generating station and the actual cost to dismantle the Nevada Power Company's generating station, appears to have no evidentiary relevance to FPL's dismantlement estimates." (TR 3677)

FPL witness Ousdahl asserted that, "FPL's fossil dismantlement studies are very detailed, are based on reasonable assumptions, and have produced estimates that have been shown to be in line in comparison with the actual dismantlement cost incurred." (TR 3678) She argued that the company's cost estimates for fossil dismantlement assume total demolition, using heavy equipment, and employing the most efficient methods possible. (TR 3670) Witness Ousdahl further argued that FPL's actual dismantlement costs, as compared to its dismantlement estimates, support the reasonableness of FPL's assumptions. Specifically, witness Ousdahl cites the dismantlement of Ft. Lauderdale fossil Units 4 and 5 in 1992. The witness stated that the estimated cost to dismantle these plants was \$8.9 million, while the actual costs of dismantlement in order to re-power the units was \$9.8 million. Witness Ousdahl concluded that FPL thus underestimated the cost of dismantling Ft. Lauderdale fossil Units 4 and 5 by approximately \$900,000. (TR 3672)

FPL witness Ousdahl further argued that the Company's estimated costs of partial dismantlement, in order to re-power a generating unit, are in line with actual costs. As an example, Witness Ousdahl referred to FPL's Ft. Myers steam Units:

FPL's estimate of the cost to dismantle the Ft. Myers steam units and common facilities was \$20.7 million, of which \$5.4 million was for Unit 1 and \$9.3 million for Unit 2, totaling \$14.7 million. The actual cost for partial dismantlement (of Units 4 and 5 steam supply systems) in order to re-power the two units was \$12.9 million. This evidence demonstrates that in a partial dismantlement scenario, the company expended 88 percent of the full dismantlement estimate. (TR 3672)

Affirm, AIF, South Daytona, FEA, SFHAA, and SCU-4 and Unger took no position on this issue. AG, FIPUG, and FRF support the position of OPC.

ANALYSIS

By Order No. 24741, issued July 1, 1991, in Docket No. 890186-EI, In Re: Investigation of the Ratemaking and Accounting Treatment for the Dismantlement of Fossil-Fueled Generating Stations (Order No. 24741), the Commission established the methodology for accruing the costs for dismantlement of fossil-fueled production plants. The methodology, codified in Rule 25-6.04364, F.A.C., is dependent on three factors: estimated base costs for dismantlement, projected inflation, and a contingency factor. Electric companies are required to file site-specific dismantlement studies at least once every four years from the submission date of the previous study unless otherwise required by Commission order.

FPL's fossil dismantlement study contains two types of assumptions. First, the study includes general assumptions that are applicable to all units and sites, such as provisions for site security and management personnel. Second, for each unit, the study includes site-specific assumptions, which are intended to capture unique characteristics of an individual plant site. Examples of site-specific assumptions may also include such things as the extent of asbestos abatement required for a given unit, and whether controlled blasting of chimneys can be done. (EXH 124, pp. 5-6)

Staff believes that FPL's dismantlement study complies with the Commission's rule and is in accord with prior dismantlement studies. Based on staff's review of the study and its supporting documentation, staff believes that the company adequately takes into consideration factors that are unique to specific units when estimating dismantlement costs. As such, it appears to staff that FPL has considered alternative demolition techniques and incorporated them into the study. It is unclear what specific aspects of FPL's study that OPC believes are deficient or unsupported, absent references to the study. Accordingly, at this time staff does not believe the record supports the need to require FPL to file analyses of alternative demolition approaches.

CONCLUSION

Staff recommends that FPL consider in future studies whether alternative demolition approaches are reasonable, as it has in the past. However, at this time staff does not believe that FPL should be required to submit analyses of alternative demolition approaches with its next study.

Docket Nos. 080677-EI, 090130-EI
Date: December 23, 2009

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?

Recommendation: Yes. The net over-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses should be included in the calculation of FPL's calculation of working capital allowance. However, the net under-recovery should be removed from the calculations in accordance with Commission policy. (Gardner)

A. Staff recommends an increase of \$101,971,000 for over-recovery of fuel and conservation costs in the calculation of the 2010 projected test year working capital allowance.

B. If applicable, staff recommends an increase of \$45,644,000 to FPL's net clause over-recovery for 2011 subsequent projected test year in the calculation of working capital allowance.

Position of the Parties

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.

OPC: Consistent with Commission practice, clause over-recoveries are included (as a reduction) and under-recoveries are excluded from working capital. Over-recoveries represent funds the Company owes customers that if excluded from working capital, customers would be providing interest the Company returned in the clause. In the clause, under-recoveries are collected from customers at the commercial paper rate. If clause under-recoveries are included in base rates, the company would receive a double return on the under-recovery.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No. AIF supports FPL's position that its projected levels of working capital are appropriate as presented and should not be adjusted for the factors listed in this issue.

SOUTH DAYTONA: No position.

FEA: No position.

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

FRF: Agree with OPC. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: Adopt OPC's position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

According to FPL witness Ousdahl, the Commission's current practice for clause over and under recoveries is not equitable. She testified that:

The Commission 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 underrecoveries, where the Commission has previously required FPL to remove the asset from working capital.

Witness Ousdahl argued that the Commission should acknowledge that base rates should never include the cost of capital associated with clause over or under recoveries, as such costs are already provided for in the clause rate itself. She further argued that the regulatory liability associated with projected over recoveries should be removed from working capital. (TR 3644-3645)

OPC

OPC stated that over-recoveries represent funds the Company owes customers that if excluded from working capital, customers would be providing interest the company returned in the clause. OPC further stated that the under-recoveries are collected from the customers at the commercial paper rate. In addition, if a clause under-recovery is included in base rates, the company will receive a double return on the under-recovery. (OPC BR 75)

OPC argued that the Commission's practice has been to exclude fuel under recoveries, which are assets, from Working Capital, and to include over-recoveries, which are liabilities. Furthermore, the rationale for including over recoveries as a reduction to Working Capital is to provide the Company with an incentive to make its projections for the cost recovery clause as accurate as possible and avoid large over-recoveries.⁶⁶ (OPC BR 75)

The AG, FIPUG, and FRF agree with and adopted OPC's position. The remaining parties took no position on this issue.

ANALYSIS

Staff agrees with the assessment of OPC, FIPUG, and FRF as to how the Commission has handled fuel over recovery in calculating the working capital allowance in prior rate case

⁶⁶ Order No. 12663, issued November 7, 1983, in Docket No. 830012-EU, In re: Petition of Tampa Electric Company for an increase in rates and charges and approval of a fair and reasonable rate of return, pp. 14-15; and Order No. PSC-93-0165-FOF-EI, issued March 29, 1993, in Docket No. 920324-EI, In re: Application for a rate increase by Tampa Electric Company, p. 38.

proceedings. In the Company's last rate proceeding, its fuel over recovery was included in the calculation of the working capital allowance.

CONCLUSION

There is no compelling evidence in the record that indicates the Commission's policy should be changed. Utilities should strive to reasonably project expenses so as to avoid over collecting from customers. Therefore, staff recommends that the over recovery included in the calculation of the working capital allowance for 2010 and 2011 should be \$101,971,000 and \$45,644,000, respectively.

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?

Recommendation: Yes. The costs for AMI have been properly included in rate base for each of the test years. The implementation of AMI is expected to increase efficiency and may provide information to customers allowing them to better manage their energy usage. FPL should provide a progress report on implementation of smart meters in the Energy Conservation Cost Recovery docket, annually. The report should include a detailed description of how FPL intends to utilize smart meters to allow customers to better manage their energy consumption, including new programs or rate offerings associated with smart meters. (Clemence)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No. The company has failed to reflect grants available from the U.S. Department of Energy as a reduction in the AMI meter costs.

Staff Analysis:

PARTIES' ARGUMENTS

FPL argued that the costs for AMI are appropriately included in rate base for the 2010 and 2011 test years. (FPL BR 99) SFHHA supports the use of American Recovery and Reinvestment Grant funds for current AMI projects. FPL argued that this could endanger the

Date: December 23, 2009

company's ability to receive the grant as the grant is for new projects that would not be included in rate base. (FPL BR 99)

FRF argued that an adjustment needs to be made and that it agrees with OPC. (FRF BR 88) FRF did not propose a specific adjustment. Staff notes that OPC did not take a position on the matter.

SFHHA argued that the revenue requirement for AMI should be reduced by \$20 million. (SFHHA BR 44) SFHHA argued that the grant money from the DOE for smart grid investment could have been used to offset expenditures that are currently planned. (SFHHA BR 43)

The other parties in the case did not take a position on this issue.

ANALYSIS

FPL plans to install smart meters over a five year period. (TR 1552) The meters will have more capabilities than the meters currently installed. (TR 1552) The new meters will be equipped with two-way communications, remote reading, connection, and disconnection capabilities and will be able to collect data regarding consumption at predetermined intervals. (TR 1551) The installation will be for residential and small/medium business accounts. (TR 1551) The meters will provide both operational and service improvements. (TR 1553) The operational improvements include a reduced need for meter readers. The service improvements include more customer usage information and reductions in the number of calls to company. (TR 1553) The meters have a life expectancy of 20 years. (EXH 35 BSP 779)

Below is a table that summarizes the number of meters being installed, capital costs, O&M costs, O&M savings and net O&M savings. (EXH 35 BSP 1712)

Deployment	2009	2010	2011	2012	2013	Total
Meters (Thousands)	170	1,128	1,099	1,076	873	4,346
Capital (Millions)	\$43.7	\$168.5	\$158.7	\$151.5	\$122.5	\$645
O&M (Thousands)	\$2,274	\$6,883	\$8,910	\$11,882	\$10,458	
Savings (Thousands)	(\$167)	(\$418)	(\$4,700)	(\$18,203)	(\$30,401)	
Net O&M (Thousands)	\$2,106	\$6,465	\$4,210	(\$6,321)	(\$19,943)	

FPL witness Santos testified that the implementation of AMI will help to modernize the grid. (TR 1551) The implementation of AMI will have \$645 million in capital costs and once fully implemented will have an annual cost savings of \$36.9 million. (TR 1552; TR 1643) Beginning in 2012, the O&M savings are greater than the O&M costs associated with AMI. (EXH 35 BSP 1712) Beginning 2013, the net O&M savings exceed \$30 million annually. Witness Santos testified that the savings from smart meters are not directly proportional to the installations. (TR6050) Witness Santos testified that AMI is a long-term project in which savings are realized after several complex, interdependent components and processes are fully

Date: December 23, 2009

developed, tested and implemented and deployment at the FPL regional work area is achieved. (TR 6065)

SFHHA witness Kollen testified that the savings from the meters and the costs should be aligned. (TR 3140) SFHHA witness proposes including 16.9% of the estimated \$36 million in savings into the test year. (TR 3140) The witness further testified that is unreasonable to have the ratepayers pay 16.9% of the total expenditures for AMI in the test year while only receiving 1.2% of the projected savings.

Staff believes that the arguments of SFHHA are unfounded. While staff agrees the savings are not in the test years, staff believes it would be inappropriate to move costs or savings from outside of the test years into either test year. This project spans several years, and FPL plans to make significant investments outside of the test years. FPL has not front loaded costs for this project. AMI implementation will ultimately give customers more control over their energy usage.

CONCLUSION

Staff believes that the costs for AMI implementation are appropriate. As seen in the chart above, the company will continue making investments outside of the test years. The project will lead to increased savings. Staff believes the investment will help modernize the grid and help the company provide better service to its customers. Staff believes that if the savings become too great, and the company earns a return outside its authorized rate, the Commission may call FPL in for an earnings review.

FPL should provide annually, a progress report on implementation of smart meters in the Energy Conservation Cost Recovery docket. The report should include a detailed description of how FPL intends to utilize smart meters to allow customers to better manage their energy consumption, including new programs or rate offerings associated with smart meters.

Date: December 23, 2009

Issue 48: Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate?

Ruling: Subsumed in Issue 173.

Issue 49: Should FPL's estimated plant in service be reduced to reflect the actual capital expenditures implemented in 2009 on an annualized basis carried forward into the projected test Year(s) and for reductions of a similar magnitude?

A. For the 2010 projected test year?

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

Ruling: Subsumed in Issue 50.

Date: December 23, 2009

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?

Recommendation: No. FPL's requested levels of Plant in Service are appropriate as shown in A and B. (Gardner)

A. Staff recommends for the 2010 projected test year Plant in Service of \$27,036,862,606, which is a reduction of \$1,251,217,394.

B. If applicable, staff recommends for the 2011 subsequent projected test year, Plant in Service of \$28,709,991,635, which is a reduction of \$889,973,365.

Position of the Parties

FPL: Yes. After accounting for the adjustments in Ex. 358 and Ex. 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.

OPC: Adjustments are appropriate regarding the appropriate jurisdictional factors in Issue 16. As reflected on Exhibit 248 SLB-26 Revised, jurisdictional plant for each year is as follows:

A. 2010: \$27,914,655,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$29,667,845,000.

AFFIRM: No position.

AG: Adopt Pock's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No. The appropriate level of Plant in Service for the 2010 test year is \$27,914,655,000.

B. No. Noting that the FRF believes that a subsequent year adjustment for 2011 is inappropriate, if the Commission decides to consider such in this docket, the appropriate level of Plant in Service for the 2011 test year is \$29,667,845,000.

SFHHA: No. FPL has cut its planned capital expenditures in 2009 and a rate base adjustment is necessary to reflect these cuts. Therefore, FPL's plant investment included in rate base should be reduced to reflect these capital expenditure reductions on an annualized basis, both for the annualized 2009 reductions carried forward into 2010 and for reductions of similar magnitude in 2010 carried forward into 2011. This results in a \$784 million reduction to rate base for the 2010 test year and an additional \$523 million reduction to rate base in the 2011 subsequent projected test year, assuming the annualized 2009 and 2010 reductions carried forward into 2011 and reductions of similar magnitude in 2011. The net result of SFHHA recommendation is that plant in service for the test year should be \$27,504,000,000.

Staff Analysis:

PARTIES' ARGUMENTS

Jurisdictional Transmissions Separation

FPL

FPL contended that the appropriate 2010 and 2011 plant in service amount is \$27,818,749,000 and \$29,043,221,000, respectively. The Company further contended that the results for plant in service are based on the accounting for adjustments reflected in Exhibits 358, 481, and 511. (FPL BR 123)

In his rebuttal testimony, FPL witness Ender testified that the company's 2010 and 2011 transmission service revenues were allocated as credits or cost-offsets to the retail jurisdiction and wholesale customers on a bundled wholesale rate. (TR 4089) He explained that the Company's use of the revenue credit methodology is consistent with the Commission's order from FPL's last litigated case.⁶⁷ (TR 4089) He concurred that the calculations performed by OPC witness Brown were appropriate in the treatment of the different components. He stated that the Company agreed to the removal of the costs and revenues associated with its long-term transmission service contracts from the retail jurisdiction. Based on his calculations, the adjustments to reduce the revenue requirements should be \$23 million and \$26 million for 2010 and 2011, respectively. (TR 4090) Furthermore, the impact of the adjustments on FPL's revenue requirements for 2010 and 2011 are identified in FPL witness Ousdahl's rebuttal testimony Exhibit KO-16). (TR 4090, EXH 358, 378, and 477)

OPC

OPC witness Brown testified that FPL created a revenue credit methodology which charged the retail jurisdiction with all costs of transmission and provided an offsetting revenue credit for transmission revenues received from non-jurisdictional customers. (TR 2425) She further stated that this created subsidy of costs may be appropriate for non-firm or short-term transmission service revenues but not for long-term firm transmission service customers. (TR 2426) She contended that eliminating the effects of the revenue credit methodology would reduce FPL's requested revenue increase by \$18.5 in 2010 and \$19 million in 2011 to the retail

⁶⁷ Order No. 13537, issued July 24, 1984, in Docket No. 830465-EI, In re: Petition of Florida Power and Light Company for an increase in its rates and charges, p.58.

Date: December 23, 2009

jurisdiction. (TR 2427) Based on her calculations, the appropriate levels of plant in service for 2010 and 2011 test years to reflect the appropriate jurisdictional factor should be \$27,914,655,000 and \$29,667,845,000, respectively. (EXH 248, SLB-26-Revised)

OPC contended that its suggested adjustments are appropriate based upon the jurisdictional factors discussed in Issues 15 and 16. In addition, the jurisdictional plant in service for 2010 and 2011 should be \$27,914,644,00 and \$29,667,845,000, respectively. (EXH 248, SLB-26 Revised, OPC BR 76) This would be a reduction to the 2010 test year of \$373,425,000 and for the 2011 test year, an increase of \$67,880. (EXH 248, SLB 26-Revised, OPC BR 76) However, in Issue 15, OPC agreed with FPL's total adjustment as reflected in Exhibit 378 (JAE-11) and stated that the adjustments were proper to rate base, operating revenue, and expenses. (OPC BR 27 and 76) OPC argued that it strenuously opposed the subsequent 2011 test year, but provided its amount of the adjustment in the event that the Commission approves a subsequent test year. (OPC BR 76)

Capital Expenditures

FPL

FPL witness Barrett stated that the Company reduced its planned capital expenditures to show lower growth for 2008 and 2009 by \$530 million and more than \$450 million, respectively. (TR 1446, EXH 68) He explained that the reduction in capital spending avoided an increase in customer revenue requirements in 2010 by approximately \$130 million. He further stated that FPL's forecast for 2010 and 2011 are consistent with the 2009 budget and appropriately reflect the forecast assumptions. (TR 1230)

During cross-examination of FPL witness Barrett, he was asked about the projected capital expenditures for 2010 and 2011. He stated that capital expenditures for the 2010 projected test year and 2011 subsequent test year were reduced by \$300 million and \$270 million, respectively. (TR 1447; EXH 386) He explained that this represented an overall total reduction of \$91 million for 2010 and an \$88 million increase for 2011. (TR 1447; EXH 386) He further explained that:

The \$91 million reduction for 2010 was composed of capital expenditures for the operating units, the business units, power generation, nuclear transmission, distribution and customer service which are the fundamental operations of the company. Also, included were specific project expenditures which were increased from the 2010 proposed budget to the 2010 approved budget.

(TR 1449; EXH 386)

FPL witness Barrett stated that the operating units reflected a "base needs of the business" reduction of 12 percent for the 2010 projected test year. (TR 1298 and 1300) Also, during further cross-examination, witness Barrett was asked if the clauses increased. (TR 1301, EXH 386) He stated that most of the increase reflected the building of the EnergySecure pipeline. (TR 1301) He contended that most of the total increase in the amount of \$88 million for the 2011 subsequent year was due to the pipeline project and some nuclear expenditures. (TR 1301, EXH 386) He further contended that 2011 included a 12 per cent reduction in the final

approved budget to reflect the Company's views on the lower growth environment. (TR 1301) He asserted that the 2010 and 2011 approved budgets were included in the MFRs. (TR 1450)

In his rebuttal testimony, witness Barrett argued that SFHHA witness Kollen's approach was completely inappropriate due to the simplifying assumptions and extrapolations of year-to-date activity. (TR 5911) He further argued that witness Kollen "assumed that all favorable year-to-date budget variances were permanent and indicative of the Company's future under-runs, and represented items that impact base revenue requirements in 2010 without any support whatsoever." In addition, witness Barrett asserted that the capital expenditures were appropriate, with the exception of the \$28 million for the DOE settlement. The capital for the DOE spent nuclear fuel settlement was not shown in the company's budget. (TR 5912) He further asserted that the expected under-runs in 2009 capital expenditures were entirely related to renewable projects recoverable through a clause, and had no impact on the 2010 projected retail rate base as filed or with the DOE settlement. (TR 5912)

The AG and FIPUG agreed with and accept OPC position. Affirm, AIF, South Daytona, FEA, SCU-4, and Unger took no position on this issue. SFHHA was the only party that specifically addressed an adjustment for capital expenditures.

SFHHA

SFHHA argued that FPL should cut its planned 2009 capital expenditures, and it should be reflected as a rate base adjustment. SFHHA witness Kollen, in his direct testimony, explained that for the four months of 2009, the Company cut its capital expenditures by \$170 million from budget levels, that is, from \$897 million to \$727 million. He further stated that this was a reduction of 19 percent or \$529 million of the 2009 approved capital expenditures annual budget in the amount of \$2,790 million. (TR 3167) He stated that the basis for his calculations was FPL's response to SFHHA Interrogatory Number 279, which provided the actual capital expenditures through April 2009. (TR 3167; EXH 325) He stated that the 2009 capital expenditure reductions in the amount of \$529 million would be in addition to the \$469 million reductions FPL included in the 2009 Minimum Filing Requirements (MFRs). (TR 3167, Exhibit 68 REB-16) SFHHA asserted that the Company's plant investment should be reduced to show the 2009 capital expenditures carried forward to 2010 on an annualized basis. He further asserted that 2011 should be of a similar magnitude. (TR 3167, SFHHA BR 45) Witness Kollen stated that the effect would be to reduce gross plant included in rate base by \$784 million, and the revenue requirement by \$92.520 million based on the Company's proposed rate of return. (TR 3168)

SFHHA argued that witness Barrett testified that the reductions in the first four months of 2009 were not representative of the test year budget. (TR 5910-5912; SFHHA BR 45) In addition, witness Barrett testified that the under-runs in capital expenditures in 2009 were for renewable projects recoverable through the clause, and should not impact the projected retail rate base in this proceeding. SFHHA further argued that witness Barrett's testimony was not persuasive. Also, SFHHA contended that witness Barrett's Exhibit REB-22 examined projected, rather than actual variances in capital expenditures. (SFHHA BR 45; EXH 338) SFHHA declared that the actual variances, unlike FPL's projected variances, are known and measurable and should be relied upon by the Commission in determining whether FPL's plant in service is accurate. (SFHHA BR 45)

SFHHA contended that based on the annualized capital expenditure reductions, FPL's resulting reductions to rate base should be \$784 million and \$523 million for the 2010 projected test year and 2011 subsequent test year, respectively. (SFHHA BR 44) In addition, SFHHA recommended that the resulting plant in service for the 2010 test year should be \$27,504,000. (SFHHA BR 45)

ANALYSIS

This is a fall-out issue. Staff reviewed the issues that related to plant in service. The changes to the jurisdictional separation factors for transmission service contracts were discussed in Issues 15 and 16. FPL agreed with OPC's position to remove the long-term transmission service contracts. OPC witness Brown provided revised adjustments. (EXH 248 SLB-26 Revised) However, in some instances her calculations were less than FPL's adjustments as shown in Exhibit JAE-11. (EXH 378) OPC chose to adopt the adjustments of FPL provided by witness Ender as proper adjustments to be made to rate base, operating revenues, and expenses. (OPC BR 27, EXH 378)

SFHHA witness Kollen's calculations established the 2009 total reduction of 19 percent or \$529 million, by annualizing the actual decrease of the first four months of capital expenditures in the amount of \$170 million. Witness Kollen did not provide any supporting documentation to substantiate annualizing only four months of data for capital expenditures. There were no comparative analyses of historical data to add credibility to SFHHA's proposed overstatement of 2009 through 2011 capital expenditures. FPL outlined its capital expenditures by business units rather than by FERC accounts. (EXH 325 and 386) SFHHA used the annualization based on business units without obtaining the necessary documentation from FPL that would have linked the reductions to the functional accounts in the MFRs. Therefore, staff believes that SFHHA's adjustments for 2009 through 2011 using the first four months of 2009 capital expenditures were not supported by adequate documentation. (EXH 325)

FPL witness Ousdahl provided a schedule in her rebuttal testimony that identified additional Company adjustments as stated below. In addition, she provided a late filed exhibit that identified the applicable plant account/function the adjustments would impact. (EXH 358 and 477)

- (1) Item 21 of KO-16 identified the jurisdictional adjustment to transmissions services for the removal of the long-term transmission service contracts as a reduction to plant in service in the amount of \$386,896,000. (EXH 358 and 477)
- (2) Item 4 of KO-16 reflects an adjustment for anticipated capital expenditures expected by DOE in 2010 and 2011 due to the nuclear fuel settlement agreement. This resulted in a jurisdictional reduction in the amount of \$25,866,000 and \$52,713,000 for 2010 and 2011, respectively. (EXH 358 and 477)
- (3) Item 12 of KO-16 reflects a reduction to plant in service for a correction of an error related to the Customer Information System III (CIS) in the amount of \$3,301,000 and \$31,641,000 for 2010 and 2011, respectively. (EXH 358 and 477)

As discussed in Issue 94, a reduction was made to aircraft expenditures for plant in service in the amount of \$53,268,205 and \$62,126,176 for 2010 and 2011, respectively.

During the cross-examination of FPL witness Barrett, he was asked whether the deferred projects listed on Exhibit 418 were included in the \$91 million reduction as shown in Exhibit 386. He stated that the projects were deferred from the 2010 projected test year. (TR 1451: EXH 418) He further clarified that "Exhibit 418 reflected plant in service, accumulated depreciation, Construction Work In Progress (CWIP), and depreciation for the delayed substations." (TR 1451) The deferred substation projects show a reduction to plant in service for 2010 and 2011 in the amount of \$7,276,000 and \$15,449,000, respectively. (EXH 418)

As discussed in Issue 19A, a capital recovery schedule as shown in Table 19A-1 was established for the near-term retirements of Cape Canaveral and Riviera power plants, the St. Lucie and Turkey Point nuclear uprate projects, and the AMI meter project. The total estimated investment of the near-term retirements as of December 31, 2009 is shown as \$774,610,189. In addition to the capital recovery schedule, a corresponding reduction should be made to plant in service and accumulated depreciation to remove the estimated investment for the planned near-term retirements. Therefore, plant in service and accumulated depreciation for both the 2010 and 2011 test year should be reduced by \$774,610,189.

As shown in Table 50-1 and Table 50-2 below, staff identified all the adjustments to plant in service for 2010 and 2011 as provided in the record. Based on a review of the parties' positions and adjustments, staff believes plant in service should be reduced for the 2010 and 2011 test year by \$1,251,217,394 and \$889,973,365, respectively.

TABLE 50-1				
2010 Plant In Service Adjustments				
Description	FPL	OPC	SFHHA	Staff
Issue 15 SLB-26 Revised-Jurisdictional Separation Factor-Transmission Services		(\$373,423,000)		
EXH 358-Issue 4-DOE Settlement	(\$25,866,000)	0		(\$25,866,000)
EXH 358-Issue 12 CIS III	(\$3,301,000)	0		(\$3,301,000)
EXH 358-Item 21-Transmission Services-jurisdictional factor	(\$386,896,000)	0	0	(\$386,896,000)
EXH 418-Deferred Projects	0	0	0	(\$7,276,000)
Issue 94 Aviation Costs	(\$53,268,205)	0		(\$53,268,205)
Issue 50: SFHHA Capital Expenditures	0		(\$784,000,000)	0
Issue 19A: Table 19A-1				(\$774,610,189)
Total Proposed Reductions	(\$469,331,205)	(\$373,423,000)	(\$784,000,000)	(\$1,251,217,394)

TABLE 50-2				
2011 Plant In Service Adjustments				
Description	FPL	OPC	SFHHA	Staff
Issue 14 WCEC3-No GBRA				\$456,830,000
Issue 15 SLB-26 Revised-Jurisdictional Separation Factor-Transmission Services		\$67,880		
FPL EXH 358-Issue 4-DOE Settlement	(\$52,713,000)	0		(\$52,713,000)
FPL EXH 358-Issue 12 CIS III	(\$31,641,000)	0		(\$31,641,000)
FPL EXH 358-Item 21-Transmission	(\$410,264,000)	0	0	(\$410,264,000)

TABLE 50-2				
2011 Plant In Service Adjustments				
Description	FPL	OPC	SFHHA	Staff
Services-jurisdictional factor				
EXH. 418-Deferred Projects	0	0	0	(\$15,449,000)
Issue 94-EXH. 511-Aviation Costs	(\$62,126,176)	0		(\$62,126,176)
Issue 50: SFHHA Capital Expenditures	0		(\$523,000,000)	0
Issue 19A: Table 19A-1				(\$774,610,189)
Total Proposed Reductions	(\$556,744,176)	\$67,880	(\$523,000,000)	(\$889,973,365)

CONCLUSION

In summary, based on the reductions reflected in Table 50-1 and Table 50-2 above, staff recommends that the appropriate levels of plant in service for 2010 and 2011 test years should be \$27,036,862,606 and \$28,709,991,635, respectively.

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?

Recommendation: No. The appropriate levels of accumulated depreciation are shown in A and B. (Gardner, P. Lee)

A. Staff recommends for the 2010 projected test year accumulated depreciation of \$11,530,030,688, which is a reduction of \$1,060,490,312.

B. If applicable, staff recommends for the 2011 subsequent test year accumulated depreciation is \$12,004,483,735, which is a reduction of \$1,302,500,265.

Position of the Parties

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.

OPC: Corresponding adjustments are appropriate as a result of the recommended adjustments in Issues 18-39 (depreciation) and Issue 50 (plant). As reflected on Exhibit 248 SLB-26 Revised, jurisdictional accumulated depreciation for each year is as follows:

A. 2010: \$12,175,597,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$12,321,306,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No. The appropriate amount of jurisdictional accumulated depreciation for 2010 is \$12,175,597,000.

B. No. Noting that the FRF strongly opposes any base rate increase in 2011, the appropriate amount of jurisdictional accumulated depreciation for 2010 is \$12,321,306,000.

Date: December 23, 2009

SFHHA: No. FPL's rate base should be reduced by the net effects of SFHHA recommendations to adjust depreciation expense. See response to Issues 19C and 19E.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL stated that the accumulated depreciation is appropriate for this rate proceeding after including the adjustments reflected in Exhibit 358, 481, and 511. The Company further stated that the accumulated depreciation for the 2010 and 2011 test years should be \$12,416,252,000 and \$13,115,003,000, respectively. (FPL BR 123)

OPC

OPC stated that the accumulated depreciation is appropriate based on the corresponding adjustments in Issues 18-39 (depreciation) and Issue 50 (plant). OPC further stated that the accumulated depreciation for the 2010 and 2011 test years should be \$12,175,597,000 and \$12,321,306,000, respectively. (OPC BR 76)

SFHHA

SFHHA stated FPL's levels for accumulated depreciation were not appropriate. SFHHA further stated that FPL's rate base should be reduced by the net effects of SFHHA recommendations to adjust depreciation expense. This could be found in its response to Issues 19C and 19E.

The AG, FIPUG, and FRF agree with OPC's position. AFFIRM, AIF, and South Daytona took no position on this Issue.

ANALYSIS

This is a fall-out issue based on the decisions made in other issues. Staff examined accumulated depreciation records of the Company for 2010 and 2011 to determine the appropriate projected and subsequent test year amounts. Staff made several adjustments, including those agreed to by FPL and the parties, issues relating to the 2009 depreciation study, fossil dismantlement study, reserve surplus, GBRA, deferred/delayed projects, aviation, and changes based on the jurisdictional separation of long-term transmission contracts.

As shown in Table 51-1 and Table 50-2 below, staff identified all the adjustments to accumulated depreciation for 2010 and 2011 as provided in the record.

TABLE 51-1			
2010 PROJECTED TEST YEAR-ACCUMULATED DEPRECIATION			
Description	FPL	OPC	Staff
Proposed Accum. Depreciation Per FPL Filing	\$12,590,521,000	\$12,590,521,000	\$12,590,521,000
Issue 15 SLB-26 Revised-Jurisdictional Separation Factor-Transmission Services			
EXH 358-Issue 4-DOE Settlement	(\$252,000)	0	(\$252,000)
EXH 358-Issue 12 CIS III	(\$130,000)	0	(\$130,000)
EXH 358 Issue 16 Account 354 correction	(\$1,734,000)		(\$1,734,000)
EXH 358-Item 21-Transmission Services-jurisdictional factor	(\$144,299,000)	0	(\$144,299,000)
EXH 418-Deferred Projects	0	0	(\$114,000)
Issue 94 Aviation Costs	(\$27,853,907)	0	(\$27,853,907)
Issue 19C and 19D: Depreciation Study			(\$41,367,500)
Issue 19E: Reserve Surplus			(\$71,450,000)
Issue 42: Fossil Dismantlement Study			\$1,320,284
Issue 50: Near-term Investment for Retirements			(\$774,610,189)
Total Proposed Reductions	(\$174,268,907)	(\$414,924,000)	(\$1,060,490,312)
Proposed Accumulated Depreciation Levels	\$12,416,252,000	\$12,175,597,000	\$11,530,030,688

TABLE 51-2			
2011 SUBSEQUENT TEST YEAR -ACCUMULATED DEPRECIATION			
Description	FPL	OPC	Staff
Proposed Reserve Per FPL Filing	\$13,306,984,000	\$13,306,984,000	\$13,306,984,000
Issue 14 WCEC3-No GBRA			\$8,229,000
Issue 15 SLB-26 Revised-Jurisdictional Separation Factor-Transmission Services			
EXH 358-Issue 4-DOE Settlement	(\$1,516,000)	0	(\$1,516,000)
EXH 358-Issue 12 CIS III	(\$1,958,000)	0	(\$1,958,000)
EXH 358-Item 16-Acct 354 correction	(\$5,273,000)		(\$5,273,000)
EXH 358-Item 21-Transmission Services-jurisdictional factor	(\$154,424,000)	0	(\$154,424,000)
EXH 418-Deferred Projects	0	0	(\$453,000)
Issue 94-Aviation Costs	(\$28,809,341)	0	(\$28,809,341)
Issue 19 C and 19 D: Depreciation Study	0		(\$133,297,000)
Issue 19E: Reserve Surplus			(\$214,350,000)
Issue 42: Fossil Dismantlement Study			\$3,961,265
Issue 50: Near-term Investment for Retirements			(\$774,610,189)
Total Proposed Reductions	(\$191,980,341)	(\$985,678,000)	(\$1,302,500,265)
Proposed Accumulated Depreciation Levels	\$13,115,003,659	\$12,321,306,000	\$12,004,483,735

Based on staff's review, the appropriate adjustments for the 2010 and 2011 test years should be \$1,060,490,312 and \$1,302,500,265 respectively.

CONCLUSION

In summary, based on the adjustments reflected in Table 51-1 and Table 50-2 above, staff recommends that the appropriate levels of accumulated depreciation for the 2010 and 2011 test years should be \$11,530,030,688 and \$12,004,483,735 respectively.

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?

Recommendation: No. The Company's proposed adjustment to Construction Work In Progress (CWIP) for the Florida EnergySecure Line (gas pipeline) is not appropriate for the 2010 and 2011 test years. Staff does not believe that the capital expenditures for the gas pipeline should be reflected in CWIP - Allowance for Funds Used During Construction (AFUDC) nor reported to the Commission on the Company's Monthly Earning Surveillance report. (Gardner)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: A. No position.

B. The Commission should not grant a subsequent year adjustment for 2011.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

In her direct testimony, FPL witness Ousdahl testified that the Company proposed to transfer the estimated capital expenditures associated with the pipeline from working capital to CWIP (Account 107). She stated that this would reduce the base rate increase request and provide an avenue for FPL to accrue AFUDC at the time the pipeline is approved for construction. She stated that neither the Company nor the customer would be disadvantaged by the uncertainties. (TR 3641)

FPL stated that on January 1, 2010, the pipeline should be transferred from the deferred debit account to CWIP (AFUDC). Although the Commission denied the need for the gas pipeline, the Company argued that the proposed treatment is nevertheless appropriate. The Company stated that "transferring the pipeline to this CWIP account will keep the project out of rate base pending the final disposition of this project." (TR 3641)

No other parties took a position on this issue.

ANALYSIS

On October 6, 2009, the Commission denied FPL's petition to determine need for the gas pipeline. The Commission determined that FPL had not adequately shown that the proposed gas pipeline was the most cost-effective option.⁶⁸ The Commission ordered FPL to revise its request for proposals based on its identified gas transportation needs and provide a copy to staff for review prior to its issuance.

CONCLUSION

Based on the Commission's actions, staff recommends that the capital expenditures for the gas pipeline should not be reflected through CWIP - AFUDC nor reported to the Commission on the Company's Monthly Earning Surveillance reports.

⁶⁸ Order No. PSC-09-715-FOF-EI, issued October 28, 2009, in Docket No. 090172-EI, In re: Petition to determine need for Florida EnergySecure Pipeline by Florida Power & Light Company.

Date: December 23, 2009

Issue 53: Has FPL removed any Environmental Cost Recovery Clause (ECRC) capital cost recovery items from the ECRC and placed them into rate base? (Category 2 Stipulation)

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

Approved Stipulation: No. FPL has not removed any ECRC capital cost recovery items from the ECRC and placed them in base rates.

Issue 54: Should FPL be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. for nuclear construction and FPL's most currently approved AFUDC for recovery when the nuclear plants enter commercial operation? (Category 1 Stipulation)

Approved Stipulation: The parties agree that this issue will be decided in a different docket.

Issue 55: Are FPL's requested levels of Construction Work in Progress (CWIP) appropriate?

A. For the 2010 projected test year in the amount of \$707,530,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of \$772,484,000?

Recommendation: No. The appropriate levels of Construction Work in Progress (CWIP) are shown in A and B. (Gardner)

A. Staff recommends that the appropriate level of Construction Work in Progress for the 2010 projected test year is \$686,815,000, which is a reduction of \$20,715,000 from FPL's requested level.

B. If applicable, staff recommends that the appropriate level of Construction Work in Progress for the 2011 subsequent projected test year is \$768,973,000, which is a reduction of \$3,511,000 from FPL's requested level.

Position of the Parties

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.

OPC: No. As reflected on Exhibit 248 SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows:

A. 2010: \$692,754,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$750,081,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No. The appropriate amount of CWIP for 2010 is \$692,754,000.

B. No. If applicable, the appropriate amount of CWIP for 2011 would be \$750,081,000.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL stated that the appropriate levels of CWIP for the 2010 projected and 2011 subsequent test years, including the adjustments from Exhibit 358 (KO-16), should be \$691,380,000 and \$771,921,000, respectively. (FPL BR 97 and 124)

OPC

OPC stated that the appropriate levels of CWIP should reflect the adjustments provided in Exhibit 248 (SLB-26 Revised) regarding the appropriate jurisdictional factors as discussed in Issues 15 and 16. OPC further stated that the appropriate jurisdictional amounts for 2010 and 2011 should be \$692,754,000 and \$750,081,000, respectively. (OPC BR 76)

The AG, FIPUG, and FRF agrees with OPC's position. Affirm, AIF, South Daytona, FEA, SFHHA, SCU-4, and Unger provided no position to this issue.

ANALYSIS

Staff agrees with the Company's calculations for the impact of the jurisdictional separation factors as shown in Item 21-Transmission Services. FPL witness Ousdahl provided additional adjustments in Exhibit 358 (KO-16) which impacted CWIP as identified in Table 55-1 below, including (1) Item 4-DOE Settlement nuclear spent fuel agreement), and (2) Item 12-CIS Plant III for an error in projection to plant in service. However, witness Barrett's late-filed exhibit was entered into the record, which included projects deferred from the 2010 and 2011 test years. (EXH 418) Witness Barrett explained that Exhibit 418 (2010-2011 Deferred Projects) included deferred projects which resulted in reductions for the 2010 and 2011 test years to plant in service, accumulated depreciation, CWIP, and depreciation expense. (TR 1451; EXH 418) This exhibit included a reduction in CWIP for 2010 and 2011 in the amounts of \$4,565,000 and 2,948,000, respectively. The overall adjustments are provided in Table 55-1 and 55-2 below.

TABLE 55-1			
CONSTRUCTION WORK IN PROGRESS -2010 ADJUSTMENTS			
Description	Company	OPC	Staff
Exhibit 358-Item 21-Transmission Services	(\$18,623,000)	(\$14,777,000)	(\$18,623,000)
Exhibit 358-Item 4-DOE Settlement	(828,000)	0	(828,000)
Exhibit 358-Item 12-CIS Plant III	3,301,000	0	3,301,000
Exhibit 418-Deferred Projects	0		(4,565,000)
Total Proposed deductions	(\$16,150,000)	(\$14,777,000)	(\$20,715,000)

TABLE 55-2			
CONSTRUCTION WORK IN PROGRESS -2011 ADJUSTMENTS			
Description	Company	OPC	Staff
Exhibit 358-Item 21-Jurisdictional Separation	(\$30,829,000)	(\$22,403,000)	(\$30,829,000)
Exhibit 358-Item 4-Doe Settlement	(1,375,000)	0	(1,375,000)
Exhibit 358-Item 12-CIS III	31,641,000	0	31,641,000
Exhibit 418-Deferred Projects	0	0	(2,948,000)
Total Proposed Reductions	(\$563,000)	(\$22,403,000)	(\$3,511,000)

CONCLUSION

Staff recommends that the appropriate level of CWIP for the 2010 projected test year should be \$686,815,000, which is a reduction of \$20,715,000. In addition, staff recommends that the appropriate level of CWIP for the 2011 subsequent test year, if applicable, should be \$768,973,000, which is a reduction of \$3,511,000.

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?

Recommendation: No. Staff recommends that the appropriate level of Property Held for Future Use for 2010 is \$70,302,000 and if applicable, the 2011 subsequent test year is \$67,518,000. The proposed levels of Property Held for Future Use for 2010 and 2011 should be reduced by \$4,200,000 and \$3,934,000, respectively. (Gardner)

Position of the Parties

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.

OPC: No. As reflected on Exhibit 248 SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows:

A. 2010: \$70,432,000

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$67,725,000.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No. The appropriate jurisdictional amount of PHFFU for 2010 is \$70,432,000.

B. No. If applicable, the appropriate jurisdictional amount of PHFFU for 2011 would be \$67,725,000.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

In his rebuttal testimony, FPL witness Ender testified that the Company's 2010 and 2011 transmission service revenues were allocated as credits or cost-offsets to the retail jurisdiction and wholesale customers on a bundled wholesale rate. He contended that the Company's use of the revenue credit methodology is consistent with Commission's Order No. 13537. (TR 4089) He further stated that the calculations performed by OPC witness Brown were appropriate in the treatment of the different components. He stated that the Company agreed to the removal of the costs and revenues associated with its long-term transmission service contracts from the retail jurisdiction. However, the amount of the adjustments should be \$23 million and \$26 million for 2010 and 2011, respectively. (TR4090) The breakdown of the adjustments for transmission services jurisdictional separation is located in Exhibit 378 (JAE-11) and Exhibit 358 (KO-16) and 477. (TR 4090, EXH 358, 378, and 477.)

OPC

OPC witness Brown testified that FPL created a revenue credit methodology which charged retail jurisdiction with all costs of transmission and provided an offsetting revenue credit for transmission revenues received from non-jurisdictional customers. She further stated that this created subsidy of costs may be appropriate for non-firm or short-term transmission service revenues but not for long-term firm transmission service customers. She contended that the revenue credit methodology transferred \$18.5 in 2010 and \$19 million in 2011 to the retail jurisdiction. (TR 2427)

OPC stated that the appropriate level of 2010 and 2011 Property Held for Future Use are \$70,432,000 and \$67,725,000, respectively. Although OPC provided an adjustment for 2011, OPC opposes the use of the 2011 subsequent test year. (OPC BR 76)

ANALYSIS

As discussed in Issue 15, OPC stated that Exhibit JAE-11 (EXH 378) reflected the proper adjustments to be made to rate base, operating revenues and expenses. (OPC BR 27) Staff compared OPC witness Brown's Exhibit 248 (SLB-26 Revised) with FPL witness Ender's Exhibit JAE-11 and saw there were differences in some of the adjustments. Even though there are differences in the parties adjustments, OPC chose to use FPL witness Ender's adjustments, as discussed in Issues 15. (OPC BR 27) The overall rate base reductions for 2010 and 2011 are \$261,720,000 and \$286,794,000, respectively. Exhibit 378 shows that the Company reduced Property Held for Future Use for 2010 and 2011 in the amount of \$4,200,000 and \$3,934,000, respectively.

CONCLUSION

In summary, staff recommends that the appropriate level of Property Held for Future Use for 2010 is \$70,302,000 and if applicable, the 2011 subsequent test year is \$67,518,000. The proposed levels of Property Held for Future Use for 2010 and 2011 should be reduced by \$4,200,000 and \$3,934,000, respectively.

Docket Nos. 080677-EI, 090130-EI
Date: December 23, 2009

Issue 57: Should any adjustments be made to FPL's fuel inventories? (Category 2 Stipulation)

Approved Stipulation: No. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 projections of FPL's fuel inventories are appropriate.

Date: December 23, 2009

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?

Recommendation: Yes. Staff recommends that the 2010 accrual of Nuclear End of Life Materials and Supplies and Last Core Nuclear Fuel is appropriate based on FPL's 2005 Rate Case Settlement. Also, staff recommends that the additional expense for 2010 and 2011 in the amount of \$6 million for last core and \$137,000 nuclear end of life materials and supplies should be removed from this base rate proceeding and addressed when the Company files its 2010 Nuclear Decommissioning Study. (Gardner, P. Lee)

Position of the Parties

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.

OPC: No. FPL's current accrual for end-of-life materials and supplies and last core nuclear fuel should be suspended with no increase allowed. FPL's over-funded decommissioning funds should be available to reimburse FPL for its end-of-life materials and supplies and last core nuclear fuel amortization should be discontinued and the 12/31/09 balance transferred to the end-of-life materials and supplies and last core reserves. Revenue impact: \$4.9 million in 2010, \$4.3 million in 2011.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC that FPL's current accrual for end-of-life materials and supplies and last core fuel should be suspended and no increase should be allowed, that the nuclear amortization should be discontinued and the December 31, 2009 balance transferred to the end-of-life materials and supplies and last core reserves.

FRF: No. Agree with OPC that FPL's current accrual for end-of-life materials and supplies and last core nuclear fuel should be suspended and no increase should be allowed, that the nuclear amortization should be discontinued and the December 31, 2009 balance transferred to the end-of-life materials and supplies and last core reserves, and that the revenue impacts are as shown by Witness Sheree Brown.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

In FPL witness Ousdahl's direct testimony, she asserted that FPL is required by the Commission to update and report values associated with end-of-life nuclear fuel last core and end of life materials and supplies inventory along with its nuclear decommissioning studies.⁶⁹ (TR 3641- 3642) She stated that FPL is not required to file its next nuclear decommissioning study until December 2010. (TR 3642) Witness Ousdahl further stated that since the 2005 study, there has been a significant increase in the projected value of the end-of-life nuclear fuel last core due to an increase in the price of fuel. She asserted that the updated values should be accounted for in this base rate case proceeding. In addition, FPL included in the 2010 and 2011 test years, the additional expense accrual of \$6 million for end of life nuclear fuel last core and \$137,000 for end-of-life materials and supplies inventory. (TR 3642)

OPC

OPC stated that FPL's current accrual for end-of-life materials and supplies and last core nuclear fuel should be suspended with no increase allowed. Also, OPC argued that FPL's over-funded decommissioning funds should be available to reimburse FPL for its end-of-life materials and supplies. In addition, the last core nuclear fuel amortization should be discontinued, and the December 31, 2009 balance transferred to the end-of-life materials and supplies and last core reserves.(OPC BR 76-77)

OPC witness Brown stated that an increase should not be allowed. (OPC BR 77) She argued that FPL's nuclear decommissioning funds are over-funded and far in excess of the amounts needed to cover the end of life materials and supplies. She contended that based on the 2005 nuclear decommissioning study, FPL's cost estimates reflect funds remaining at the end of the license lives and should be over \$5.4 billion. (OPC BR 77)

Witness Brown stated that the Commission should require FPL to investigate its options for utilizing the non-restricted, nonqualified funds, and see if the end of life material and supplies and nuclear fuel can be reclassified. Also, she argued that it would provide legitimate deductions against the funds at the end of the license lives. She concluded that the Commission could transfer the authorized \$6.955 million in nuclear amortization to the end-of-life nuclear fuel last core and material and supplies reserves. (OPC BR 78)

FIPUG and FRF agree with OPC's position. The remaining intervenors took no position on this issue.

⁶⁹ Order No. PSC-02-0055-PAA-EI, issued January 7, 2002, in Docket No. 991931-EI, In re: Determination of appropriate method of recovery for the last core of nuclear fuel for Florida Power and Light Company and Florida Power Corporation.

ANALYSIS

Staff reviewed Order No. PSC-02-0055-PAA-EI, which addressed (1) FPL's petition for the approval of annual accruals for nuclear decommissioning; (2) FPL's accumulated amortization; and (3) the appropriate method of recovery for the last core of nuclear fuel for FPL. The Order explained FPL's position on end-of-life material and supplies inventories and last core as follows:

FPL believes EOL M & S (end of life material and supplies) inventories should be considered part of nuclear decommissioning since the costs relate to the time each nuclear site will cease operation. Further, FPL asserts that the annual expense/reserve accruals associated with the EOL M & S inventories represent the recovery of amounts that will already been expended during the operating life of each nuclear unit and thus do not require a cash outlay at the time of decommissioning. Therefore, FPL concludes that there is no need to fund these amounts.

FPL considers the Last Core cost to be a result of final shut down of the nuclear reactor, equating to an unrecovered cost remaining at the end of the unit's life.

The Order addressed the Commission's request that FPL address the amortization status of End of Life Material and Supplies and Last Core costs in subsequent decommissioning studies so the related annual accruals could be revised, if warranted. The Order further stated that "in the event of industry restructuring, treatment of the Last Core unfunded reserve should follow the same treatment afforded nuclear decommission." Based on this Order, staff believes this base rate proceeding is not the appropriate docket within which to address the increase for end of life nuclear fuel last core and material and supplies.

CONCLUSION

Staff believes that the 2010 accrual of Nuclear End of Life Materials and Supplies and Last Core Nuclear Fuel is appropriate based on the FPL 2005 Rate Case Settlement. However, staff recommends that the additional expense for 2010 and 2011 in the amount of \$6 million for end-of-life nuclear fuel last core and \$137,000 end of life materials and supplies should be removed from the applicable accounts of this base rate proceeding and addressed when the Company files its 2010 Nuclear Decommissioning Study.

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?

Recommendation: Yes. Staff recommends that the nuclear fuel assets should be capitalized and included in rate base for the 2010 projected test year. If the Commission approves the Company's request for a 2011 subsequent test year, nuclear fuel assets should be capitalized and included in the 2011 subsequent test year. (Gardner, Lester, Barrett)

Position of the Parties

FPL: Yes. The nuclear fuel assets should be included in rate base like any other investment providing utility service to customers.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

In acquiring fuel for its nuclear units, FPL leased nuclear fuel from a subsidiary. The leased nuclear fuel includes nuclear fuel in process, nuclear fuel in reactor, spent fuel inventory, and accumulated amortization. FPL established a subsidiary, FPL Fuels, LLC (FPL Fuels), in 1979, for the purpose of financing its acquisition of nuclear fuel. (TR 4868-4869; EXH 35, p. 437)

Accounting rules in place in 1979 allowed FPL Fuels to buy nuclear fuel and then lease it to FPL. (Pimentel, TR 4868-4869) This leasing arrangement allowed FPL (the lessor) to finance nuclear fuel at a lower overall cost than would be obtained through conventional purchasing and

Date: December 23, 2009

financing. (TR 4869) FPL witness Ousdahl noted, however, that FPL intends to dissolve FPL Fuels on or before January 1, 2010. (TR 3643) This issue addresses whether nuclear fuel should be capitalized and included in rate base upon FPL Fuels dissolution.

FPL Fuels used a credit facility to issue commercial paper that funded the acquisition of nuclear fuel. Witness Ousdahl pointed out, however, that more recent accounting changes have negated the benefit of maintaining a separate fuel company and that commercial paper "is now guaranteed directly by FPL." (TR 3643) As noted above, FPL Fuels will be dissolved in the very near future. FPL witness Pimentel stated that the commercial paper issued by FPL Fuels is currently included as short-term debt on FPL's balance sheet and is included in rating agency and investor evaluations of the adequacy of FPL's capital structure. (TR 4868-69; EXH 180, MFR Schedule D-2) Therefore, FPL believes that nuclear fuel should be capitalized and included in rate base like other assets that provide utility service to customers. (FPL BR 36, 129)

ANALYSIS

Staff notes that FPL included the nuclear fuel balances in net plant and, therefore, are included in the calculation of rate base. (EXH 35, p. 443) Based on the change in accounting rules, the benefit of off-balance sheet financing is no longer available, and the nuclear fuel balances are a part of FPL's consolidated balance sheet. Further, bond rating agencies now include the debt that financed the nuclear fuel as part of FPL's overall debt. (EXH 35, p. 441) Finally, including nuclear fuel in rate base is analogous to including fuel inventory in working capital and, therefore, in rate base. For these reasons, staff believes the Commission should approve FPL's proposed treatment of nuclear fuel.

Staff notes that the proposed treatment increases the revenue requirement in comparison to the previous (leasing) treatment. This is because the nuclear fuel assets are financed at the overall cost of capital instead of the specific debt rate for commercial paper.

The intervenors in this proceeding did not provide an opposing position on this issue.

CONCLUSION

Staff recommends that the nuclear fuel assets should be capitalized and included in rate base for the 2010 projected test year. If the Commission approves the Company's request for a 2011 subsequent test year, nuclear fuel assets should be capitalized and included in the 2011 subsequent test year.

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?

Recommendation: No. Staff recommends that the appropriate level of Nuclear Fuel for 2010 should be \$370,962,000. If the Commission approves the Company's request for a 2011 subsequent projected test year, the appropriate level of Nuclear Fuel for 2011 should be \$404,334,000. This will result in reductions of \$3,771,000 and \$3,791,000 as supported by FPL's Exhibits 358, 378, and 477, respectively. (Gardner, Lester)

Position of the Parties

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.

OPC: No. As reflected on Exhibit 248 SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows:

A. 2010: \$374,772,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$408,163,000.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No. The appropriate amount of Nuclear Fuel for 2010 is \$374,772,000.

B. No. If applicable, the appropriate amount of Nuclear Fuel for 2011 would be \$408,163,000.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL argued that the appropriate level of Nuclear Fuel for the 2010 and 2011 test years, which includes adjustments from Exhibits 358 and 477, should be \$370,962,000 and \$404,334,000, respectively. (FPL BR 97 and 125, EXH 358 and 477)

OPC

OPC argued that the appropriate levels of Nuclear Fuel for the 2010 and 2011 test years, which includes adjustments shown in Exhibit 248 SLB-26 Revised, should be \$374,772,000 and \$408,163,000, respectively. This will reflect the appropriate jurisdictional factors as addressed in Issues 15 and 16. (OPC BR 78) OPC calculations resulted in reductions for 2010 and 2011 projected test years in the amount of \$39,000 and \$38,000, respectively.

ANALYSIS

Staff reviewed OPC Exhibit 248, SLB-26 Revised, and found that OPC's net Nuclear Fuel reductions for the 2010 and 2011 test years were \$39,000 and \$38,000, respectively. A similar review was made of FPL's Exhibits 358 and Exhibit 378 (JAE-11). Staff found that FPL's net nuclear fuel reductions for the 2010 and 2011 projected test years were \$3,771,000 and \$3,791,000, respectively. As discussed in Issue 15, OPC agreed with FPL's final reductions. Therefore, staff agreed with both parties that FPL's reductions for the 2010 and 2011 test years are appropriate.

CONCLUSION

Based on the record, staff recommends that the appropriate level of Nuclear Fuel for 2010 should be \$370,962,000. If the Commission approves the Company's request for a 2011 subsequent projected test year, the appropriate level of Nuclear Fuel for 2011 should be \$404,334,000. This will result in reductions of \$3,771,000 and \$3,791,000 as supported by FPL's Exhibits 358 (KO-16), 378 (JAE-11), and 477.

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

Recommendation: Yes. Staff recommends that the unamortized balance of FPL Glades Power Park (FGPP) in the amount of \$34.1 million should be included in rate base and amortized over five years. (Gardner)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL contends that the unamortized balance of the FPL Glades Power Park (FGPP) should be included in rate base. The Company stated that in Order No. PSC-09-0013-PAA-EL, issued on January 5, 2009, in Docket No. 070432-EI, the Commission granted FPL recovery of the FGPP costs and provided for amortization of the \$34.1 million of costs over a five-year period beginning on January 1, 2010.⁷⁰

The Parties to the rate case proceeding took no position on this issue.

⁷⁰ Order No. PSC-09-0013-PAA-EI, issued January 5, 2009, in Docket No. 070432-EI, In re: Petition for authority to use deferral accounting and for creation of a regulatory asset for prudently incurred preconstruction costs associated with development of clean coal project by Florida Power & Light.

ANALYSIS

Staff agrees with the Company.

CONCLUSION

Staff recommends that the unamortized balance of FPL Glades Power Park in the amount of \$34.1 million should be included in rate base and amortized over five years.

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?

Recommendation: No. Staff recommends that the appropriate 2010 test year level of Working Capital is \$112,121,000. If the Commission approves the Company's requested 2011 subsequent projected test year, the appropriate 2011 test year level of Working Capital is \$282,604,000. Also, the appropriate adjustments for 2010 and 2011 projected test year to the working capital allowance calculations should be reductions of \$97,141,000 and \$52,756,000, respectively. (Gardner)

Position of the Parties

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.

OPC: No. As reflected on Exhibit 248 SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16 and further adjustments may be necessary pending the resolution of other working capital issues. The appropriate jurisdictional amounts for working capital are as follows:

A. 2010: \$167,502,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$306,905,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No. The appropriate amount of working capital for 2010 is \$167,502,000.

B. No. If applicable, the appropriate amount of working capital for 2011 would be \$306,905,000.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

As discussed in Issue 46, FPL witness Ousdahl argued that the Commission's current practice regarding over and underrecoveries is not equitable. (TR 3644) She stated that the Commission is being inconsistent with the treatment of underrecoveries. She argued that the Commission should acknowledge that base rates should never include the cost of capital associated with clause over and underrecoveries since the cost is already provided for in the clause rate. (TR 3645) Witness Ousdahl stated that FPL removed the regulatory liability associated with projected overrecoveries from working capital. She stated that the requested levels of Working Capital are appropriate and reflect the adjustments for clause over-recoveries. (TR 3644)

FPL contended that the appropriate 2010 and 2011 levels of Working Capital should be based on the adjustments reflected in Exhibit 358 (KO-16). (FPL BR 98) FPL concluded that the appropriate 2010 and 2011 levels of Working Capital should be \$217,039,566 and \$330,076,576, respectively. (FPL BR 98)

OPC

OPC contended that the appropriate level of Working Capital should reflect the appropriate jurisdictional factors as shown on Exhibit 248 SLB-26, as discussed in Issues 15 and 16. However, OPC asserted that there may be other adjustments for other Working Capital issues. (OPC BR 78) However, OPC concluded that the appropriate jurisdictional amounts for the 2010 and 2011 working capital should be \$167,502,000 and \$306,905,000, respectively. Although OPC opposed the use of the 2011 subsequent test year, the appropriate Working Capital level was provided for the Commission's consideration. (OPC BR 78)

ANALYSIS

In Table 62-1 below, staff listed all of the adjustments to Working Capital as provided by FPL and OPC. As discussed above, FPL's adjustments were identified in Exhibit 358 (KO-16) and are shown in the Table as a \$7,777,000 increase to Working Capital. (EXH 358, 378) Item 21-Transmission Services jurisdictional factor was discussed in Issue 15, and the Table reflects the applicable portion of the \$261,720 million reduction which impacted Working Capital. Each adjustment represents a correction of an error to rate base by the Company. OPC contended that the 2010 and 2011 adjustments to Working Capital should be \$41,763,000 and \$28,461,000, respectively. (EXH 248 SLB-26 Revised) However, FPL argued that the adjustments to 2010 and 2011 Working Capital should be an increase of \$7,777,000 and a decrease of \$5,283,000, respectively. Staff believes that the net over-recoveries that was removed by FPL, as discussed in Issue 46, should be included in the calculations of the Working Capital allowance. The inclusion of over recoveries in working capital is an ongoing practice of the Commission. Therefore, staff further believes that the 2010 and 2011 calculations of the Working Capital allowance should be increased by \$101,971,000 and \$45,644,000, respectively. Also, as discussed in Issue 122, rate case expense should be removed from working capital for the 2010

Date: December 23, 2009

and 2011 test year in the amount of \$2,948,000 and \$1,829,000, respectively. Accordingly, the overall effect resulted in reductions for the 2010 and 2011 test years, as reflected in Table 62-1 and 62-2 below, in the amount of \$97,194,000 and \$52,756,000, respectively.

TABLE 62-1			
2010 Working Capital Adjustments			
Description	FPL	OPC	Staff
Item 8 - Bad Debt (EXH 358)	\$584,000	0	\$584,000
Item 13 - Storm Liability (EXH 358)	1,809,000	0	1,809,000
Item 14 - Fuel Inventory	1,685,000	0	1,685,000
Item 21 - Transmission Services	3,700,000	(\$41,763,000)	3,700,000
Issue 46 - Over-Recovery	0	0	(101,971,000)
Issue 122 - Rate Case Expense			(2,948,000)
Total Working Capital Reduction	\$7,777,000	(\$41,763,000)	(\$97,141,000)

TABLE 62-2			
2011 Working Capital Adjustments			
Description	FPL	OPC	Staff
Item 8 - Bad Debt (EXH 358)	(\$398,000)	0	(\$398,000)
Item 13 - Storm Liability (EXH 358)	(1,809,000)	0	1,809,000
Item 14 - Fuel Inventory	(10,503,000)	0	(10,503,000)
Item 21 - Transmission Services	3,809,000	(\$28,461,000)	3,809,000
Item 46 - Over-Recovery	0	0	(45,644,000)
Item 122 - Rate Case Expense			(1,829,000)
Total Working Capital Reduction	(\$5,283,000)	(\$28,461,000)	(\$52,756,000)

CONCLUSION

In summary, as reflected in Table 62-1 and Table 62-2 above, the appropriate reduction for the 2010 Working Capital allowance is \$97,141,000. If the Commission approves the Company's requested 2011 subsequent test year, the appropriate reduction to the 2011 Working Capital allowance is \$52,756,000. Therefore, staff recommends that the appropriate levels of Working Capital for the 2010 and 2011 test years should be \$112,121,000 and \$282,604,000, respectively.

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?

Recommendation: No. The appropriate levels of rate base are appropriate as shown in A and B. (Gardner)

A. Staff recommends that the appropriate 2010 projected test year rate base should be \$16,747,031,918, which is a reduction of \$316,554,082 from FPL's requested level.

B. If applicable, staff recommends that FPL's appropriate 2011 subsequent test year rate base should be \$18,228,936,900 which is an increase of \$348,534,900 from FPL's requested level.

Position of the Parties

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.

OPC: No. As reflected on SLB-26 Revision 2, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16 and further adjustments are necessary pending the resolution of other rate base issue. The appropriate jurisdictional amounts for rate base are as follows:

A. 2010: \$17,044,518,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$18,879,413,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF asserts that FPL's requested rate base is appropriate and should be approved, subject to the adjustments presented by FPL Witness Ousdahl, Exhibit KO-16 and any other stipulations of the parties.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. The adjustments recommended by Intervenors should be made.

FRF: A. No. The appropriate rate jurisdictional rate base amount for 2010 is \$17,044,518,000.

B. No. The appropriate rate jurisdictional rate base amount for 2011 is \$18,879,413,000.

SFHHA: No.

A. FPL's rate base for the 2010 projected test year should be reduced by \$552 million based on SFHHA recommendations.

B. FPL's rate base for the 2011 subsequent projected test year should be reduced by an additional \$523 million based on SFHHA recommendations.

Staff Analysis: This is a fall-out issue. Staff recommends that the appropriate 2010 projected test year rate base should be \$16,747,031,918 which is a reduction of \$316,554,082 from FPL's requested level, as shown below in Table 63-1. If applicable, staff recommends that FPL's appropriate 2011 subsequent test year rate base should be \$18,228,936,900 which is an increase of \$348,534,900 from FPL's requested level, as shown below in Table 63-2.

TABLE 63-1				
Jurisdictional Amount for 2010 Rate Base				
	FPL ⁷¹	OPC ⁷²	SHHA ⁷³	STAFF
Utility Plant-In-Service	\$ 27,818,749,000	\$ 27,914,655,000	\$ 27,504,000,000	\$ 27,036,862,606
Accumulated Depreciation	12,416,252,000	12,175,597,000		11,530,030,688
Net Plant-In Service	\$15,402,497	\$ 15,739,058,000		\$15,506,831,918
CWIP	691,380,000	692,754,000		686,815,000
Property Held for Future Use	70,302,000	70,432,000		70,302,000
Nuclear Fuels	370,962,000	374,772,000		370,962,000
Net Utility Plant	\$16,535,141,000	\$ 16,877,016,000		\$16,634,910,918
Working Capital	217,040,000	167,502,000		112,121,000
Total Rate Base	\$16,752,180,637	\$ 17,044,518,000	\$16,511,586,000	\$16,747,031,918

TABLE 63-2				
Jurisdictional Amount for 2011 Rate Base				
	FPL ⁷¹	OPC ⁷²	SHHA ⁷³	STAFF
Utility Plant-In-Service	\$ 29,043,221,000	\$ 29,667,845,000	\$27,765,080,000	\$28,709,991,635
Accumulated Depreciation	13,115,003,000	12,321,306,000		12,004,483,735
Net Plant-In Service	\$ 15,928,218,000	\$ 17,346,539,000		\$16,705,507,900
CWIP	771,921,000	750,081,000		768,973,000
Property Held For Future Use	67,518,000	67,725,000		67,518,000
Nuclear Fuels	404,334,000	408,163,000		404,334,000
Net Utility Plant	\$ 17,171,991,000	\$ 18,572,508,000		\$17,946,332,900
Working Capital	330,076,576	306,905,000		282,604,000
Total Rate Base	\$17,502,066,627	\$ 18,879,413,000	\$16,801,666,000	\$18,228,936,900

(See Schedules 1A and 1B)

⁷¹ The changes to FPL's rate base positions are based on the accounting for adjustments in EXHs 358, 481, and 511.

⁷² The calculation of OPC's position is based on the amounts contained in OPC's Brief.

⁷³ The calculation of SFHHA's position is based on the amounts contained in SFHHA's Brief.

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?

Recommendation: The appropriate amount of accumulated deferred taxes to include in the capital structure is \$2,885,287,055 for the projected 2010 test year. If applicable, the appropriate amount of accumulated deferred taxes is \$2,887,005,778 for 2011. (Springer, Salnova)

Position of the Parties

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).

OPC: Corresponding adjustments are appropriate to reflect plant, depreciation and other adjustments that impact the amount of deferred taxes expense during the test year, including the proper jurisdictional allocations. See Exhibit 248 SLB-26 Revised, deferred taxes should be as follow:

A. 2010: \$3,445,529,000 after an adjustment of \$93,598,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$3,737,349,000, after an increase of \$319,741,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL's position that its accumulated deferred income taxes are appropriate as presented to the Commission.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC as to the levels of accumulated deferred taxes. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: ADIT is jurisdictional to the FPL retail ratepayers and should not be reduced for “pro rata adjustments” to reconcile the company’s capitalization to rate base. FPL should include \$3,313.373 million of accumulated deferred income taxes in its jurisdictional capital structure for the 2010 projected test year.

Staff Analysis:

PARTIES’ ARGUMENTS

FPL’s original MFR Schedules showed jurisdictional accumulated deferred income taxes (ADITs) balances of \$2,723,327,000 and \$2,655,102,000 for 2010 and 2011, respectively. (EXH 180, MFR Schedule D-1a; FPL BR 52) As a result of “bonus depreciation” made available by the American Recovery and Reinvestment Act of 2009, FPL’s balances of jurisdictional ADITs increased to \$2,886,174,000 for 2010 and \$2,771,888,000 for 2011. (FPL BR 52; EXH 358) This adjustment decreased retail revenue requirements by more than \$40 million for 2010 and by nearly \$36 million for 2011 compared to FPL’s initial filing in this proceeding. (FPL BR 52; TR 3709; EXH 358)

OPC witness Brown recommended the balances of ADITs be increased as a result of the impact of certain adjustments to depreciation expense recommended by OPC witness Pous. (TR 2479-2480; EXH 248) OPC asserted that due to prior adjustments to plant, depreciation, and other corresponding adjustments, an upward adjustment of \$93,598,000 for 2010 is appropriate. (TR 2480) OPC asserted that the correct amount of ADITs is \$3,445,529,000 for the projected 2010 test year. (EXH 248) While OPC does not support a 2011 subsequent test year, it did propose an upward adjustment to ADITs of \$319,741,000 for the 2011 subsequent test year. (EXH 248) OPC asserted that the appropriate amount of ADITs is \$3,737,349,000 for 2011. (EXH 248; OPC BR 79)

SFHHA witness Kollen recommended that the appropriate amount of ADITs is \$3,313,373,000 for the projected 2010 test year. (SFHHA BR 48) Witness Kollen offered three reasons why the balance of ADITs should be increased. (SFHHA BR 49–53; TR 3170–3174) First, witness Kollen asserted that the Company inappropriately reduced the balance of ADITs included in the proposed capital structure by \$168,598,000 for the effects of FIN 48. (TR 3170) FIN 48 requires a company to establish a “reserve” for future income tax audit adjustments that may increase a company’s income tax liability and thus reduce the balance of ADITs recorded on its accounting books. (TR 3170) Second, witness Kollen contended that FPL had improperly diluted the low-cost capital provided by customer deposits and the cost-free capital provided by ADITs by allocating pro rata adjustments over these capital components. (TR 3172) Third, witness Kollen argued that if depreciation expense and accumulated depreciation are reduced from the levels initially proposed by the Company, then there should be a corresponding increase to the related balance of ADITs compared to the levels initially included in the capital structure. (TR 3173)

AIF supported FPL’s position on this issue. (AIF BR 23) AG, FIPUG, and FRF adopted the position of OPC on this issue. (AG BR 12; FIPUG BR 28; FRF BR 91–92) Affirm, South Daytona, and FEA took no position on this issue.

ANALYSIS

FPL proposed a balance of \$2,723,327,000 of jurisdictional ADITs to include in the Company's capital structure for the projected 2010 test year. For the 2011 subsequent test year, the Company recorded \$2,655,102,000 of jurisdictional ADITs. (EXH 180, MFR Schedule D-1a) The Company's revised MFR Schedule D-1a reflected balances of jurisdictional ADITs of \$2,890,553,000 for 2010 and \$2,777,180,000 for 2011. (EXH 480) However, in its Brief, the Company proposed balances of ADITs of \$2,886,174,000 for 2010 and \$2,771,888,000 for 2011. This discrepancy in the amounts of ADITs is the result of subsequent rate base and cost of capital adjustments made by the Company related to the removal of aviation expenses. (FPL BR 126)

As defined in Order No. PSC-09-0283-FOF-EI⁷⁴ issued in the recently completed Tampa Electric Company rate case:

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 the 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 statements. Deferred income taxes are generated when ratepayers pay income tax expenses in rates prior to the Company actually being required to make those payments to the U.S. Treasury. Deferred income taxes are included in capital structure because these funds are used by the Company in the provision of utility electric service and should be reflected in the utility's regulated capital structure. The purpose of deferred income tax accounting is to reflect in the financial statements the tax effects (both current and deferred) of assets, liabilities, revenues, and expenses recorded on the financial statements. In the regulated environment, the process of recording deferred income taxes on temporary differences is often referred to as "normalization." Recognizing zero cost deferred taxes in the capital structure (normalization) reduces the overall rate of return charged to ratepayers. In ratemaking, the ADIT balance is a zero cost source of capital in the cost of capital computation, thereby sharing the benefit of the reduced financing costs with ratepayers.

FASB Statement No. 109 (SFAS 109)⁷⁵ requires a company to recognize a deferred tax liability or asset for the deferred tax consequences of temporary differences. The correct amount of ADITs is the result of various adjustments. FPL witness Ousdahl recommended certain adjustments to the balance of ADITs originally proposed by the Company for the 2010 projected and 2011 subsequent test years. (EXH 358) FPL proposed an adjustment to tax depreciation for 2009 to reflect the impact of the Stimulus Bill of the American Recovery and Reinvestment Act of 2009. The Stimulus Bill allows businesses to immediately depreciate 50 percent of the cost of

⁷⁴ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company.

⁷⁵ Accounting for Income Taxes, Statement of Financial Accounting Standards No. 109 (Financial Accounting Standards Board, 1992)

a depreciable property purchased and placed in service in 2009. (26 USC §168(k); TR 3708) Consistent with the IRC §168(k),⁷⁶ FPL has utilized the special depreciation allowance in addition to Modified Accelerated Cost Recovery System (MACRS) tax depreciation allowed on its Federal tax returns. (TR 3708) FPL increased the tax depreciation by \$884 million in 2009. (TR 3708) However, in addition to recognizing the bonus depreciation adjustment, FPL also corrected an error that resulted in a decrease in the accumulated deferred income tax liability. (EXH 358; EXH 480) The net result of these adjustments increased the balances of ADITs to \$2,890,553,000 for 2010 and \$2,777,180,000 for 2011. (EXH 480)

SFHHA witness Kollen asserted that FPL inappropriately reduced the balance of ADITs included in its proposed capital structure by \$168,598,000 for the effects of FIN 48. (TR 3170) Financial Accounting Standards Board (FASB) Interpretation No. 48 (FIN 48) is a new interpretation of FASB SFAS 109 that clarifies the accounting for uncertainty in income taxes. FIN 48 requires a company to establish a “reserve” for future income tax audit adjustments that may increase the Company’s income tax liability and thus reduce the balance of ADITs recorded on its accounting books. (TR 3170) Per FIN 48,⁷⁷ a liability recognized as a result of applying this Interpretation shall not be classified as a deferred tax liability unless it arises from a taxable temporary difference. FPL witness Ousdahl testified that FPL had included the deferred taxes associated with the temporary differences related to the FIN 48 liabilities in the Company’s balance of ADITs rather than with long-term liabilities in rate base. (TR 3664; EXH 327) She stated that this practice is consistent with the treatment of the deferred taxes and FIN 48 liabilities for FERC reporting. (EXH 327)

SFHHA witness Kollen argued that the Company had improperly diluted the low-cost capital provided by customer deposits and the cost-free capital provided by ADITs by allocating pro rata adjustments over these capital components. (TR 3172) However, FPL witness Ousdahl stated that allocating pro rata adjustments over only investor sources of capital would result in an appropriate double counting of the low cost customer deposits and cost-free deferred income tax capital structure components. (TR 3665) To support the Company’s position on the issue, witness Ousdahl cited to previous Commission orders and demonstrated the effects of the double counting. (EXH 353; EXH 354) The double counting of deferred income taxes might result in a violation of tax normalization rules. (TR 3668) Tax normalization requires any ratemaking adjustment with respect to a utility’s deferred income tax reserves to be consistently applied with respect to rate base, depreciation expense, and income tax expense. (IRC §168(i)(9);⁷⁸ TR 3668) The consequence of violating the normalization method of accounting is the loss of the ability to claim accelerated depreciation for income tax purposes. (IRC §168(f)(2);⁷⁹ TR 3668) Such a normalization violation would result in the loss of the ability to use accelerated tax methods of depreciation. (TR 3668) Consistent with the prior FPSC orders, tax normalization rules, and as discussed in Issue 69 in greater detail, FPL has properly allocated pro-rata adjustments to all sources of capital.

⁷⁶ 26 USC §168(k) (2009)

⁷⁷ Accounting for Uncertainty in Income Taxes, Statement of Financial Accounting Standards No. 48, §18 (Financial Accounting Standards Board, 2006)

⁷⁸ 26 USC §168(i)(9) (2009)

⁷⁹ 26 USC §168(f)(2) (2009)

CONCLUSION

Staff agrees that the methodology used by FPL to calculate ADITs is proper and is consistent with SFAS 109, FIN 48, and Internal Revenue Code covering the projected and subsequent test year. However, the appropriate amount of ADITs is affected by other adjustments made by the Commission.

Staff recommends that the appropriate amount of accumulated deferred taxes to include in FPL's capital structure is \$2,885,287,055 for the projected 2010 test year. If applicable, the appropriate amount of accumulated deferred taxes is \$2,887,005,778 for 2011.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

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

Ruling: Subsumed in Issue 69.

Date: December 23, 2009

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?

Recommendation: The appropriate jurisdictional balance of unamortized investment tax credits to include in FPL's capital structure is \$5,416,335 at a cost rate 8.64 percent for the projected 2010 test year. If applicable, the appropriate jurisdictional balance of unamortized investment tax credits is \$2,585,079 at a cost rate 8.65 percent for 2011. (Springer, Salnova)

Position of the Parties

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.

OPC: The appropriate cost rate should reflect the weighted average cost rate of investor sources of capital (long and short-term debt, equity). Corresponding adjustments are appropriate to reflect the proper jurisdictional allocation factors. Based on OPC witness Brown's Exhibit SLB-26-Revision 2, unamortized ITCs should be as follows:

A. 2010: \$63,939,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$191,748,000 at 7.40%.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL's position as presented at Exhibit 358.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: ITCs are jurisdictional to the FPL retail ratepayers and should not be reduced for "pro rata adjustments" to reconcile the company's capitalization to rate base. The appropriate amount of the unamortized investment tax credits to include in the capital structure is \$63.212 million, and the appropriate cost rate for that amount is 9.05%.

Staff Analysis:

PARTIES' ARGUMENTS

In its original filing, the Company included a balance of \$56,983,000 of unamortized investment tax credits (ITCs) at a cost rate of 9.74 percent in its projected 2010 test year capital structure and a balance of \$161,290,000 at a cost rate of 9.77 percent in its projected 2011 subsequent test year capital structure. (EXH 180, MFR Schedule D-1a) As the result of certain adjustments proposed by FPL witness Ousdahl, the Company is now recommending balances of unamortized ITCs of \$5,418,220 for 2010 and \$2,481,628 for 2011. (FPL BR 126) FPL's revised cost rates for unamortized ITCs are 9.71 percent for 2010 and 9.74 percent for 2011. (FPL BR 126)

OPC's proposed ITC balances of \$63,939,000 for 2010 and \$191,748,000 for 2011 agree with the amounts included in FPL original filing on a system basis. (TR 3209; EXH 180, MFR Schedule D-1a) However, because OPC recommended lower cost rates for certain capital components, OPC proposed cost rates for ITCs of 7.41 percent for 2010 and 7.40 percent for 2011. (OPC BR 79; FIPUG BR 22) OPC acknowledged that the appropriate cost rate should reflect the weighted average cost rate of investor sources of capital and that corresponding adjustments are appropriate to reflect the proper jurisdictional allocation factors. (OPC BR 79) OPC's position is based on the capital structure and ROE recommended by OPC witness Woolridge. There was no specific testimony regarding the appropriate balance or cost rate for ITCs.

SFHHA argued that ITCs are jurisdictional to FPL and should not be reduced by a pro rata adjustment to reconcile rate base and capital structure. (SFHHA BR 53) SFHHA recommended that the 2010 capital structure should include a balance of ITCs of \$63,212,000 at a cost rate of 9.05 percent. (SFHHA BR 53)

AIF supported FPL's position. (AIF BR 24) AG, South Daytona, FIPUG, and FRF adopted the position of OPC. (AG BR 12; FIPUG BR 28; FRF BR 92) Affirm and FEA took no position on this issue.

ANALYSIS

In its initial filing, FPL recorded a balance of \$56,983,000 of jurisdictional ITCs in the Company's capital structure for the projected 2010 test year. (EXH 180, MFR Schedule D-1a) For the 2011 subsequent test year, the Company recorded a balance of \$161,290,000 of jurisdictional ITCs. (EXH 180, MFR Schedule D-1a) The Company's revised MFR Schedule D-1a reflected jurisdictional ITC balances of \$5,426,000 for 2010 and \$2,486,000 for 2011. (EXH 480) However, in its Brief the Company recommended balances of unamortized ITCs of \$5,418,220 for 2010 and \$2,481,628 for 2011. (FPL BR 126) The discrepancy in the amounts of unamortized ITCs is the result of rate base and cost of capital adjustments made by the Company related to the removal of aviation expenses. (FPL BR 126)

Staff believes that FPL's methodology for calculating the balance of ITCs is appropriate and is in accordance with IRS requirements. However, as a result of certain adjustments recommended by FPL witness Ousdahl, the Company revised its specific adjustments to long-

term debt and deferred income taxes, and proposed a new adjustment to ITCs. (TR 3708; EXH 358, EXH 480) FPL's adjustment to remove solar plant amounts from rate base for clause recovery in its initial filing did not include the removal of the solar-related ITCs from the capital structure. (TR 3709, EXH 358) Correction of this error resulted in decreases to the respective balances of ITCs of \$57,622,486 in 2010 and \$188,709,329 in 2011. (TR 3709, EXH 358) Staff concurred with these specific adjustments and the resulting jurisdictional balances for ITCs are \$5,416,335 for 2010 and \$2,585,079 for 2011.

However, staff does not agree with the Company's proposed ITC cost rates of 9.74 percent for 2010 and 9.77 percent for 2011. (EXH 180, MFR Schedule D-1a) Staff agrees with FPL's methodology for calculating the ITC cost rate by applying the respective cost rates to the respective balances of common equity, preferred stock (none), and long-term debt. (EXH 180, MFR Schedule D-1a) Staff disagrees with OPC's methodology for determining the ITC cost rate of applying the respective cost rates to all of FPL's investor sources of capital, including short-term debt. (OPC BR 79; EXH 208) Staff believes the items that qualify for ITCs are financed with long-term investor sources of capital.

FPL's proposed 9.74 percent cost rate for 2010 is based on the Company's proposed return on equity of 12.50 percent and long-term debt cost rate of 5.55 percent applied to the relative percentages of these sources of capital. (EXH 180, MFR Schedule D-1a) FPL's proposed 9.77 percent cost rate for 2011 is based on the Company's proposed return on equity of 12.50 percent and long-term debt cost rate of 5.81 percent applied to the relative percentages of these sources of capital. (EXH 180, MFR Schedule D-1a) Staff recalculated the 2010 ITC cost rate based on staff's proposed 10.75 percent ROE and a proposed long-term debt cost rate of 5.49 percent as discussed in Issues 80 and 68, respectively. This resulted in an 8.64 percent weighted average ITC cost rate for 2010. Staff recalculated the 2011 ITC cost rate based on staff's proposed 10.75 percent ROE and a proposed long-term debt cost rate of 5.65 percent as discussed in Issues 80 and 68, respectively. This resulted in an 8.65 percent weighted average ITC cost rate for 2011. These rates are fall-out calculations and could change based on Commission decisions in other issues.

CONCLUSION

Staff recommends that the appropriate jurisdictional balance of unamortized ITCs to include in FPL's capital structure is \$5,416,335 at a cost rate 8.64 percent for the projected 2010 test year. If applicable, the appropriate jurisdictional balance of unamortized ITCs is \$2,585,079 at a cost rate 8.65 percent for 2011.

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?

Recommendation: The appropriate cost rate for short-term debt is 2.11 percent for the 2010 projected test year. If applicable, the appropriate cost rate for short-term debt is 3.51 percent for 2011. (Springer)

Position of the Parties

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.

OPC: The appropriate cost of short-term debt is as follows:

A. 2010: 2.27%.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is 2.27%.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL position that the appropriate cost rate for short-term debt is 2.96% for the 2010 test year and 4.61% for the 2011 subsequent projected test year.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: A. Agree with OPC: 2.27%.

B. Agree with OPC: 2.27%.

SFHHA: The appropriate cost rate for short term debt is 0.60%.

Staff Analysis:

PARTIES' ARGUMENTS

FPL proposed cost rates for short-term debt of 2.96 percent for 2010 and 4.61 percent for 2011. (FPL BR 126; EXH 180, MFR Schedule D-1a; EXH 480) These rates include both interest charges related to commercial paper borrowings based on the 30-day forward London Interbank Offered Rate (LIBOR) curve as of November 30, 2008 and fixed costs related to maintaining back-up credit facilities to support FPL's commercial paper program. (FPL BR 29, EXH 480) FPL witness Pimentel testified that it was appropriate to recover the \$1,536,000 in annual commitment fees associated with FPL's use of short-term debt in the cost rate. (EXH 35, BSP 8241-8242)

FPL witness Pimentel disagreed with any upward adjustment to the balance of short-term debt. (TR 4904) Witness Pimentel argued that the intervenor witnesses did not recognize a \$375 million adjustment to remove FPL Fuels commercial paper from short-term debt, reduction of short-term debt through the pro rata adjustment to the capital structure, and year-end balances that do not recognize the cyclical nature of FPL's cash flows and the resulting impact on short-term debt balances. (TR 4904) Witness Pimentel testified that forward LIBOR curves best represent market expectations regarding future interest rates and thus it is not appropriate to use historical rates or a rate from a specific point in time. (TR 4908) In addition, witness Pimentel viewed the low forecasted rates as a market anomaly, and did not expect this trend to continue. (TR 4908)

OPC witness Woolridge asserted that the appropriate short-term debt cost rate for 2010 and 2011 is 2.27 percent. (OPC BR 79; EXH 212) Witness Woolridge testified that a 2009 short-term debt cost rate of 2.27 percent is more appropriate than the Company's proposed 2.96 percent for 2010 and 4.61 percent for 2011. (OPC BR 79; EXH 208; EXH 180, MFR Schedule D-3, page 1 of 2 - 2009) Witness Woolridge asserted that his recommended cost rate reflects current market interest rates and is not based on speculative forecasts of interest rates. (OPC BR 79; TR 3210) Witness Woolridge testified that the LIBOR peaked in the third quarter of 2008 at 4.75 percent, and since then has declined to below 1.0 percent as the short-term credit markets have opened up and Treasury rates have remained low. (TR 3197) In addition, witness Woolridge proposed an increase in the relative balance of the short-term debt reflected in the capital structure to reflect the higher relative percentage of short-term debt maintained in the past. (EXH 212)

SFHHA witness Baudino supported a short-term debt cost rate of .60 percent which reflected the 3-month LIBOR rate as of June 30, 2009. (SFHHA BR 54; TR 2577) Additionally, SFHHA witness Kollen recommended that the \$1.661 million in annual facility and administrative fees for the Company's credit term loan facilities be included as an expense in the determination of the revenue requirement. (TR 2577; TR 3175; EXH 328) Witness Baudino also supported an increase in the relative amount of the short-term debt as a percentage of the capital structure. (TR 2577; TR 2611)

AIF supported FPL's position on this issue. (AIF BR 24) AG, South Daytona, FIPUG, and FRF adopted OPC's position on this issue. (AG BR 12; FIPUG BR 28; FRF BR 92) Affirm and FEA took no position.

ANALYSIS

FPL's 2.96 percent cost rate for short-term debt for 2010 is comprised of an assumed commercial paper borrowing rate of 2.12 percent, plus an allowance for commitment fees associated with accessing its credit facility of 0.84 percent. (EXH 35, BSP 8242) FPL's 4.61 percent cost rate for short-term debt for 2011 is comprised of an assumed commercial paper borrowing rate of 2.77 percent, an allowance for commitment fees associated with accessing its credit facility of 1.84 percent. (EXH 35, BSP 8243) The following Table 67-1 shows FPL's 2008-2011 short-term debt balances, the annual credit facility commitment fees, fees as a percentage of short-term debt, short-term debt cost rates, and the total weighted average short-term debt cost rate.

Table 67-1					
<u>Year</u>	<u>(1)</u> <u>Short-term</u> <u>Debt Balance</u>	<u>(2)</u> <u>Annual Credit</u> <u>Facility Fees</u>	<u>(3)</u> <u>Annual Credit</u> <u>Facility Fee</u> <u>Percentage</u> <u>(2)/(1)</u>	<u>(4)</u> <u>Short-term</u> <u>Debt (STD)</u> <u>Cost Rate</u>	<u>(5)</u> <u>Total</u> <u>Weighted</u> <u>Avg. STD</u> <u>Cost Rate</u> <u>(3)+(4)</u>
2008	\$353,370,000	\$1,993,000	.56%	1.96%	2.52%
2009	\$242,016,000	\$1,536,000	.63%	1.64%	2.27%
2010	\$181,615,000	\$1,536,000	.84%	2.12%	2.96%
2011	\$83,370,000	\$1,536,000	1.84%	2.77%	4.61%

(EXH 180, MFR Schedule D-3)

As shown in Table 67-1 above, the annual credit facility fees are calculated as a percentage of the short-term debt balance. (EXH 35, BSP 8244) Witness Pimentel cited the 175 basis point adjustment approved for TECO in Order No. PSC-09-0283-FOF-EI⁸⁰ to substantiate the proposed 184 basis point credit facility fee in 2011. (TR 4909) However, staff disagrees with applying the higher percentage that appears inflated due to the projected lower relative balance of short-term debt. In addition, TECO's approved credit facility fees are based on a fixed percentage subsumed in the cost rate, and not a fixed annual amount as is the case for FPL. (EXH 35, BSP 8244-8245)

Staff believes that SFHHA witness Baudino's proposed short-term cost rate of .60 percent derived from the actual 3-month LIBOR as of June 30, 2009, is not an appropriate short-term cost rate since the cost rate should incorporate the annual credit facility fee charges. (SFHHA BR 54; TR 2577) In addition, staff believes SFHHA witness Kollen's adjustment to include the \$1.661 million facility and administrative fee associated with the Company's credit term loan facilities as an operating expense is not appropriate in this instance. Staff agrees with FPL witness Pimentel that these fees are a true cost of issuing short-term debt and should be included in the cost of debt. (TR 2577; TR 3175; EXH 328, TR 4909)

⁸⁰ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company, page 34.

Date: December 23, 2009

Staff believes that OPC witness Woolridge's proposed short-term cost rate of 2.27 percent taken from FPL's MFR Schedule D-3 actual 2009 calculation is not appropriate in this instance. (TR 3210; EXH 208; EXH 180, MFR Schedule D-3) Staff believes the use of OPC witness Woolridge's short-term cost rate overstates FPL's cost rate for 2010 and understates the cost rate for 2011 since it is historical and does not factor in more current projections. Finally, staff disagrees with FPL's recommendation to use a dated 30-day forward LIBOR curve as of November 30, 2008 as well as a 184 basis point annual credit facility fee for 2011.

Staff believes that the record supports a 2010 weighted average short-term debt cost rate between .60 percent and 2.96 percent. (TR 2577; TR 3210; EXH 480) Additionally, staff believes the record supports a 2011 short-term debt cost rate between .60 percent and 4.61 percent. (TR 2577; TR 3210; EXH 480) However, staff believes the appropriate short-term cost rate should be calculated utilizing an interpolated percentage of the most recent 30-day LIBOR curve projection as of July 28, 2009. (EXH 372) In addition, staff believes that an average of the annual credit facility fee percentages from 2008-2010 of .68 percent should sufficiently compensate the Company for these annual fees.

Staff believes the record supports a cost rate for short-term debt of 2.11 percent for the projected 2010 test year and 3.51 percent for the subsequent projected 2011 test year. To arrive at its recommended cost rates, staff utilized a similar methodology as FPL and OPC but relied on more current information in the record in the computation. Staff used an interpolated percentage of the 30-day forward LIBOR curve as of July 28, 2009, to obtain a more current projected interest rate of 1.43 percent for 2010 and 2.82 percent for 2011. (EXH 372) Staff added 68 basis points for the average cost of credit facility fees to the interpolated borrowing rate of 1.43 percent (2010) and 2.82 percent (2011) for a total short-term debt cost rate of 2.11 percent and 3.51 percent, respectively. Table 67-2 detail how staff derived the 2010 and 2011 annual average credit facility fee percentage and Table 67-3 details how staff derived the staff recommended short-term cost rates.

Table 67-2	
<u>Year</u>	<u>Annual Credit Facility Fee Percentage</u>
2008	.56%
2009	.63%
2010	.84%
Average	.68%

(EXH 180, MFR Schedule D-3)

Table 67-3			
<u>Project Test Year</u>	<u>30-day Forward LIBOR Curve as of 7/28/2009*</u>	<u>Avg. Annual Credit Facility Fee Percentage</u>	<u>Staff Recommended Short-term Cost Rate</u>
2010	1.43%	.68%	2.11%
2011	2.82%	.68%	3.51%

*These rates are interpolated from EXH 372.

(EXH 372; EXH 180, MFR Schedule D-3)

CONCLUSION

Staff recommends that the appropriate cost rate for short-term debt is 2.11 percent for 2010. If applicable, the appropriate cost rate for short-term debt is 3.51 percent for 2011.

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?

Recommendation: The appropriate cost rate for long-term debt is 5.49 percent for the projected 2010 test year. If applicable, the appropriate cost rate for long-term debt is 5.65 percent for 2011. (Springer)

Position of the Parties

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.

OPC: The appropriate cost of long-term debt is as follows:

A. 2010: 5.14%.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is 5.14%.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL's position that the appropriate cost rate for long term debt is 5.55% for 2010 and 5.81% for 2011.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC: 5.14%.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL's proposed cost rate for long-term debt is 5.55% for 2010 and 5.81% for 2011. (FPL BR 29-30; EXH 180, MFR Schedule D-4a) These rates are based on 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 Financial Forecast (Blue Chip) consensus forecast of December 1, 2008. (FPL BR 29-30; EXH 180, MFR Schedule D-4a) FPL's proposed cost rates for long-term debt take

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. (FPL BR 30; EXH 180, MFR Schedule D-4a)

FPL witness Pimentel explained that FPL's MFRs had been predicated on its expectation to issue \$300 million of three year debt in January 2009 at an interest rate of 3.3 percent. (TR 5461-5462; EXH 35, BSP 8409-8415) However, the debt was not issued at that time and FPL instead issued \$500 million of 30-year bonds at 5.96 percent in March 2009. (TR 5462; EXH 35, BSP 280) Witness Pimentel stated that the additional funds raised would reduce the October and December 2009 projected issuances to keep the total amount of debt raised in 2009 issuance at \$1 billion. (EXH 35, BSP 280, BSP 4808-4809)

FPL witness Pimentel disagreed with OPC witness Woolridge's recommended cost rate for long-term debt of 5.14 percent. (TR 4909-4910) Witness Pimentel argued that he does not agree with witness Woolridge's use of the overall embedded long-term debt cost rate for 2009 as the long-term debt cost rate for 2010 and 2011. (TR 4909-4910) Witness Pimentel argued that in order for the 2010 long-term debt cost rate to remain at the 2009 embedded cost rate of 5.14 percent, FPL would need to issue long-term debt in 2009 and 2010 at an average rate of 3.70 percent. (TR 4910) Witness Pimentel stated that the Company's actual weighted average cost of long-term debt excluding storm recovery bonds for 2008 is 5.43 percent. (TR 4910; EXH 373)

OPC witness Woolridge testified that he used FPL's 2009 projected long-term debt cost rate of 5.14 percent for both 2010 and 2011. (OPC BR 80, TR 3210, EXH 180, MFR Schedule D-4a) Witness Woolridge stated that the long-term debt cost rate should be based on current market interest rates, not based on speculative forecasts of interest rates. (OPC BR 80; TR 3210)

AIF supported FPL's position. (AIF BR 25) AG, South Daytona, FIPUG, and FRF adopted OPC's position on this issue. (AG BR 12; FIPUG BR 28; FRF BR 92) Affirm, FEA, and SFHHA took no position on this issue. (SFHHA BR 55)

ANALYSIS

Staff believes that the record supports a 2010 weighted average long-term debt cost rate between 5.14 percent and 5.55 percent. (TR 3210; EXH 180, MFR Schedule D-4a) Additionally, staff believes the record supports a 2011 long-term debt cost rate between 5.14 percent and 5.81 percent. (TR 3210; EXH 180, MFR Schedule D-4a) Both OPC and FPL agreed to utilize the same methodology of calculating the long-term debt cost rate, but OPC witness Woolridge applied FPL's 2009 long-term debt cost rate to both the 2010 and 2011 projected test years. (TR 3210; EXH 180, MFR Schedule D-4a)

FPL provided a revised MFR Schedule D-4a to correct some calculation errors and to update the schedule to reflect actual issuances that did not take place as projected due to market conditions. (EXH 35, BSP 3252-3253) FPL witness Pimentel asserted that if one inserted in the actual debt that the Company issued in the first quarter of 2009 with the updated interest rate projections from the June 2009 Blue Chip Financial forecast, it would result in a slightly higher interest rate than the rate proposed in FPL's original MFR Schedule D-4a. (TR 5462)

Date: December 23, 2009

FPL maintained that 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 witness Pimentel. (FPL BR 31) Staff agrees with FPL that updated information in the record should be incorporated in the revisions. Conversely, staff disagrees with FPL that it is inappropriate to use an updated forecast when determining the appropriate long-term cost rates as well as revising any errors in the original filing. Staff determined that FPL made an error of including a nonexistent AAA- credit rating in its interpolation of the Company's A+ credit rating positioned between AAA and BBB. (EXH 35, BSP 3232; TR 5457-5458) This error had the effect of overestimating the long-term cost of debt for FPL. In addition, staff applied the most recent October 2009 Blue Chip forecast and the June 2009 Blue Chip forecast (Biannual edition) to update FPL's projected long-term coupon rates. (TR 5460-5461) Table 68-1 below shows FPL's originally proposed interest rates based on the December 2008 Blue Chip Financial forecast and staff's estimated rates based on FPL's methodology updated for forecasts from the June and October 2009 editions of Blue Chip, correcting for the interpolation error, and recognizing the other adjustments FPL made in its revised MFR Schedule D-4a.

Table 68-1					
Estimated Coupon Rate Calculation	Blue Chip Financial Forecast Edition(s)	S&P Credit Rating	2009 Estimated Coupon Rate	2010 Estimated Coupon Rate	2011 Estimated Coupon Rate
FPL	December 2008	A+	7.11%	6.88%	7.02%
Staff	June & October 2009	A+	5.95%	6.29%	6.65%

(EXH 35, 3232; TR 5460-5461)

To calculate the appropriate embedded cost of long-term debt, staff made some adjustments to FPL's revised MFR Schedule D-4a for both 2010 and 2011. (EXH 35, BSP 3252-3253) For the specific debt issuances projected by FPL, staff substituted FPL's estimated coupon rates of 7.11 percent for 2009, 6.88 percent for 2010, and 7.02 percent for 2011 with the updated estimated coupon rates of 5.95 percent, 6.29 percent, and 6.65 percent, respectively, based on updated interest forecasts from more current Blue Chip forecasts. In addition, the 3-year notes that were not actually issued in January 2009 and the storm securitization bonds have been removed from this calculation. The cumulative effect of the above adjustments results in a six basis point decrease in the cost rate for long-term debt for 2010 from 5.55 percent to 5.49 percent. Similarly, the long-term debt cost rate for 2011 was revised downward by 16 basis points from 5.81 percent to 5.65 percent.

CONCLUSION

Staff recommends that the appropriate cost rate for long-term debt is 5.49 percent for 2010. If applicable, the appropriate cost rate for long-term debt is 5.65 percent for 2011.

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?

Recommendation: Yes. For the sole purpose of setting rates in this case only, rate base and capital structure have been reconciled appropriately. (Springer)

Position of the Parties

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.

OPC: No. Specific Adjustments should be made to customer deposits, ADIT and ITC based on corresponding rate base adjustments. No further pro rata adjustments to these accounts should be made to reconcile the Company's capital structure to rate base.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: Yes. AIF supports FPL position that the adjustments presented in Exhibit KO-16 appropriately reconcile the 2010 and 2011 rate base and capital structure.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: A. No position.

B. The Commission should not grant a subsequent year adjustment for 2011.

SFHHA: No. Customer deposits, ADIT and ITC should not be reduced for pro rata adjustments to reconcile the company's capitalization to rate base. FPL should include Customer Deposits of \$626.383 million at a cost of 5.98%, ADIT of \$3,313.373 million at a cost of 0%, and ITC at a cost of 9.05%. See discussion of Issue 66.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl asserted that a significant portion of FPL's pro rata adjustments reflect the removal of clause-related plant and Allowance for Funds Used During Construction (AFUDC)-eligible Construction Work in Progress (CWIP) from FPL's retail rate base. (TR 3666) Witness Ousdahl testified that these rate base items are removed because they earn their own return outside of base rates. (TR 3666) Additionally, witness Ousdahl stated that the clause

Date: December 23, 2009

items earn a Commission-approved rate of return that is calculated over all sources of capital, including accumulated deferred income taxes (ADITs), customer deposits, and investment tax credits (ITCs). (TR 3666; EXH 354) Moreover, witness Ousdahl stated that when these items are removed from rate base, it is appropriate to make the necessary reconciling adjustment to the capital structure on a pro rata basis over all sources of capital in order to avoid double-counting the benefit of zero cost deferred taxes and low cost customer deposits. (TR 3666-3667; EXH 354)

OPC argued that specific adjustments should be made to the balances of customer deposits, ADITs and ITCs based on corresponding rate base adjustments, and no further pro rata adjustments to these accounts should be made to reconcile the Company's capital structure to rate base. (OPC BR 80) SFHHA also stated that the balances of customer deposits, ADITs and ITCs should not be reduced for pro rata adjustments to reconcile the Company's capitalization to rate base. (SFHHA BR 55) SFHHA witness Kollen argued that FPL had improperly diluted the low-cost capital provided by customer deposits and the cost-free capital provided by ADITs by allocating pro rata adjustments over these capital components. (TR 3172) Witness Kollen explained that capital amounts should be directly assigned to ratepayers in the same manner as if the amounts had been used to reduce rate base. (TR 3172) Witness Kollen maintained that customer deposits and ADITs were not used to finance the amounts that comprise the total of FPL pro rata adjustments. (SFHHA BR 51, TR 3172)

AIF supported FPL's position on this issue. (AIF BR 25) AG, South Daytona, and FIPUG adopted OPC's position on this issue. (AG BR 13; FIPUG BR 28-29) Affirm, FEA, and FRF took no position on this issue. (FRF BR 92)

ANALYSIS

The purpose of this issue is to determine if adjustments made by FPL to rate base have been appropriately reconciled to the capital structure. The appropriateness of those adjustments is determined by whether certain specific and pro rata adjustments should be reconciled over all sources of capital or over investor sources of capital only. MFR Schedule D-1b lists the specific and pro rata adjustments that FPL made to the Company's proposed capital structure for the 2010 and 2011 projected test years. (EXH 180, MFR Schedule D-1b) FPL made specific adjustments to the balances of common equity, long-term debt, ITCs, and ADITs. After FPL made specific adjustments to specific components in the capital structure, all other adjustments were made pro rata over all sources of capital. (EXH 180, MFR Schedule D-1a)

FPL argued that making the adjustment in this manner is the easiest way to avoid a potential violation of the Internal Revenue Service (IRS) tax normalization rules and avoid the risk of losing the IRS tax benefit of accelerated depreciation. (TR 3668) FPL witness Ousdahl explained that reconciling rate base over all sources of capital also matches the way FPL expends cash in the normal course of its operations. FPL funds its operations from a pool of funds that is generated from all sources of capital - including deferred taxes, customer deposits and investment tax credits. (TR 3665)

FPL cited the Commission's treatment of reconciling adjustments approved in Order No. PSC-09-0571-FOF-EI⁸¹ related to Tampa Electric Company's (TECO) motion for reconsideration as support for the way that FPL reconciled rate base and capital structure with pro rata adjustments over all sources of capital. However, in that order the Commission identified seven additional orders in which the incremental adjustment to rate base were made through pro rata adjustments over investor sources of capital only.⁸² In addition, the Commission stated in Order No. PSC-09-0571-FOF-EI, "Our decision on this point is specific to the record in this case and shall not be considered precedent regarding our position on this or similar issues in future proceedings." That said, FPL did not furnish the information requested by staff concerning adjustments by plant to the balances of ADITs and ITCs. The following passage is the response by FPL to a discovery request to identify the balances of ADITs and ITCs by plant:

For the forecast period, the Company did not specifically identify accumulated deferred income taxes or investment tax credits by plant. The Company forecasts the temporary differences for each annual period and identifies the change in deferred income taxes applicable to those temporary differences for each period. The temporary differences during the forecast period are not specifically identified to a specific plant. The amounts are provided in the aggregate in the determination of the taxable income and the accumulated deferred income taxes applicable to a specific plant item have not been separated by temporary differences in the accumulated deferred taxes balance. To determine the deferred income taxes related to CWIP for a specific item, a close out schedule for temporary differences would be required to reflect the transfer of temporary difference from CWIP to plant in service and the related allocation of book depreciation to the various forecasted basis (temporary) differences. For the test year 2010 and the subsequent year, 2011, the amount of deferred tax liabilities forecasted to be generated relating to CWIP were approximately \$176 million and \$143 million, respectively. During these same periods, deferred income tax liabilities related to plant in service decreased for 2010 by \$17 million and increased by \$4 million for 2011. Related to the investment tax credits, the Company calculated the estimated amount of investment tax credits to be generated from solar and reported the amounts in the applicable year; it also provided for the amortization beginning on the estimated in-service date. The amortization of investment tax credits is not tracked by plant and is combined by

⁸¹ Order No. PSC-09-0571-FOF-EI, issued August 21, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company.

⁸² Order No. PSC-09-0375-PAA-GU, issued May 27, 2009, in Docket No. 080366-EI, In re: Petition for rate increase by Florida Public Utilities Company; Order No. PSC-08-0436-PAA-GU, issued July 8, 2008, in Docket No. 070592-GU, In re: Petition for rate increase by St. Joe Natural Gas Company, Inc.; Order No. PSC-04-1110-PAA-GU, issued November 8, 2004, in Docket No. 040216-GU, In re: Application for rate increase by Florida Public Utilities Company; Order No. PSC-04-0128-PAA-GU, issued February 9, 2004, in Docket No. 030569-GU, In re: Application for rate increase by City Gas Company of Florida; Order No. PSC-01-1274-PAA-GU, issued June 8, 2001, in Docket No. 001447-GU, In re: Request for rate increase by St. Joe Natural Gas Company, Inc.; and Order No. PSC-01-0316-PAA-GU, issued February 5, 2001, in Docket No. 000768-GU, In re: Request for rate increase by City Gas Company of Florida.

rate on the balance sheet.

(EXH 35, BSP 243)

Staff agrees with SFHHA witness Kollen that it has been the Commission's practice to make specific adjustments where possible and to prorate other rate base adjustments over investor sources only.⁸³ (SFHHA BR 52) Staff believes that if an adjustment does not involve plant, then it is likely that the account in question did not produce deferred taxes or ITCs. Absent a showing that specifically identifies ADITs and ITCs associated with a non-plant related adjustment, all adjustments for amounts unrelated to plant should continue to be removed from the capital structure through a pro rata adjustment over investor sources of capital only. In this particular instance, staff believes that there are three reasons why FPL should be allowed to make pro rata adjustments over all sources of capital. First, FPL has made a compelling argument regarding the plant items that earn an AFUDC rate and clause items that earn a Commission-approved rate of return. The AFUDC return is calculated over all sources of capital, including deferred taxes, customer deposits, and investment tax credits. When these items are removed from rate base, it is appropriate to make the necessary reconciling adjustment to the capital structure on a pro rata basis over all sources of capital in order to avoid double-counting the benefit of zero cost deferred taxes and low cost customer deposits. Second, FPL asserted that to avoid a potential violation of IRS tax normalization rules,⁸⁴ the rate of return for clause-related plant and AFUDC-eligible CWIP removed from the rate base should be calculated using the same methodology as the rate of return for the jurisdictional rate base so that adjustments to ADITs are applied consistently. Third, as shown in Table 69-1, staff has calculated the relative difference in overall cost of capital resulting from the two methodologies of reconciling rate base and capital structure. This difference does not justify the negative consequence of a normalization violation. Finally, despite discovery requests and under cross

⁸³ Order No. PSC-02-0787-FOF-EI, issued June 10, 2002, in Docket No. 010949-EI, In re: Request for rate increase by Gulf Power Company; Order No. PSC-08-0327-FOF-EI, issued May 19, 2008, in Docket No. 070304-EI, In re: Petition for rate increase by Florida Public Utilities Company; Order No. PSC-08-0436-PAA-GU, issued July 8, 2008, in Docket No. 070592-GU, In re: Petition for rate increase by St. Joe Natural Gas Company, Inc.

⁸⁴ As defined in Order No. PSC-09-0571-FOF-EI, issued August 21, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company; Normalization requirements are outlined in Section 168 of the Internal Revenue Code (IRC). In pertinent part, Section 168 permits the use of accelerated depreciation methods. However, accelerated depreciation is permitted with respect to public utility property only if the taxpayer uses a normalization method of accounting for ratemaking purposes. Under a normalization method of accounting, a utility calculates its ratemaking tax expense using depreciation that is no more accelerated than its ratemaking depreciation (typically straight-line). In the early years of an asset's life, this results in ratemaking tax expense that is greater than actual tax expense. The difference between the ratemaking tax expense and the actual tax expense is added to a reserve (the accumulated deferred income tax reserve, or ADIT). The difference between ratemaking tax expense and actual tax expense is not permanent and reverses in the later years of the asset's life when the ratemaking depreciation method provides larger depreciation deductions and lower tax expense than the accelerated method used in computing actual tax expense. This accounting treatment prevents the immediate flowthrough to utility ratepayers of the reduction in current taxes resulting from the use of accelerated depreciation. Instead, the reduction is treated as a deferred tax expense that is collected from current ratepayers through utility rates, and thus is available to utilities as cost-free investment capital. When the accelerated method provides lower depreciation deductions in later years, only the ratemaking tax expense is collected from ratepayers and the difference between the actual tax expense and ratemaking tax expense is charged to ADIT, depleting the utility's stock of cost-free capital. (<http://edocket.access.gpo.gov/2003/03-4885.htm>)

examination during the hearing, FPL did not provide the information necessary to itemize specific adjustments to the balances of ADITs and ITCs for the amounts removed from rate base.

Table 69-1

	Pro rata adjustment over all sources of capital	Pro rata adjustment over investor sources only	Difference
2010 Weighted Average Cost of Capital	7.00%	6.92%	8 basis points
2011 Weighted Average Cost of Capital	7.18%	7.15%	3 basis points

Overall, staff is concerned about symmetry in the treatment of reconciling rate base and capital structure. FPL did not provide the information that details the specific adjustments that staff requested. The omission of information should not inure to the benefit of the party responsible. However, staff believes the risk of losing the benefit on accumulated deferred income taxes in the determination of customer rates due to a normalization violation outweighs this concern in the instant case. Staff believes this is not the proper venue to address the appropriate methodology for reconciling the capital structure to rate base since it would affect all IOUs, not just FPL. Staff recommends a generic docket be opened to address this issue on a prospective basis.

CONCLUSION

After making certain specific adjustments, FPL has reconciled rate base to capital structure through a pro rata adjustment over all sources of capital. Staff believes that the appropriate method to reconcile rate base to capital structure is to make adjustments to the class of capital in the capital structure that correspond to the adjustments made to related accounts in rate base. For example, adjustments made to rate base from accounts that do not generate deferred taxes or investment tax credits should not be reconciled over deferred taxes or investment tax credits in the capital structure. The record shows that FPL did not specifically identify its sources of capital and trace its funding usage. Accordingly, for the sole purpose of setting rates in this rate case only, staff recommends that rate base and capital structure have been reconciled appropriately. Additionally, staff recommends that a generic docket be opened to address this issue on a prospective basis.

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?

Recommendation: Yes. The equity ratio reflected in FPL's original MFR filing for purposes of setting rates in this proceeding is 59.6 percent as a percentage of investor capital. The 55.8 percent "adjusted" equity ratio is just that, the Company's equity ratio as a percentage of investor capital expressed on an S&P-adjusted basis. (Maurey)

Position of the Parties

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.

OPC: No. Typically, when electric utilities attempt to invoke the "S&P methodology" to adjust the capital structure to reflect S&P's treatment of power purchase agreements (PPAs), they seek to add an increment of "pretend equity" that they don't have on their books. FPL's actual equity ratio is so extravagantly high that it asks the Commission to pretend its actual 59% equity ratio is lower than it really is. FPL argues imputing \$949 million of additional debt associated with PPAs would yield an "adjusted actual equity ratio" of 55.8%. The argument is misleading, in that FPL proposes to use its actual ratio for ratemaking purposes. The adjustment is unwarranted in any event. The Commission assures FPL of recovery of PPA costs through a cost recovery clause, so there is no risk of non-recovery that warrants FPL's argument. Besides, not every rating agency regards PPAs as risky: Moody's views them as potentially positive.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: Yes. AIF supports FPL's position that its treatment of purchase power contracts is proper and should be approved.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. The Commission should reject FPL's request to impute \$949.3 million of debt related to purchase power contracts. Such contracts are a direct pass through to ratepayers and represent no risk to FPL. In the recent Tampa Electric rate case, the Commission rejected a similar request for a PPA adjustment.

FRF: No. Agree with OPC.

SFHHA: No. See response to Issue 69.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Pimentel recommended the Company's "actual adjusted" equity ratio of 55.8 percent as a percentage of investor capital be used for purposes of this proceeding. (TR 4846; FPL BR 31; AIF BR 27) He testified that FPL has consistently maintained this relative equity position, on an adjusted basis, since the 1999 Revenue Sharing Agreement was approved by the Commission in Order No. PSC-99-0519-AS-EI.⁸⁵ (TR 4846; FPL BR 31; AIF BR 28)

Witness Pimentel noted that rating agencies and investors make certain adjustments to a company's capital structure when evaluating the adequacy of the capital structure. These adjustments include adding a portion of financial commitments that are not reflected on the balance sheet as well as removing all or a portion of obligations that are included on the balance sheet but are considered non-recourse to the company. (TR 4848-4849; FPL BR 34; AIF BR 26) FPL witness Avera testified that, from a management perspective, FPL must be mindful of how the investment community views the Company's capital structure. (TR 4590; AIF BR 26) He noted that, unlike Tampa Electric Company (TECO)⁸⁶ and Progress Energy Florida (PEF),⁸⁷ FPL is not requesting that imputed equity be included in its regulatory capital structure. (TR 4591; FPL BR 34) Witness Pimentel testified that FPL is simply asking the Commission to consider the impact, from the rating agencies' perspective, that purchased power agreements (PPAs) have on the Company's financial metrics when evaluating FPL's requested equity ratio. (TR 4903; FPL BR 34-35)

Witness Pimentel testified that FPL's adjusted equity ratio of 55.8 percent has been and continues to be viewed as adequate and appropriate by the investment community. (TR 4854) He concluded that, "maintaining this adjusted equity ratio will indicate to the capital markets the Commission's continued commitment to support the financial integrity of the service providers subject to its jurisdiction." (TR 4854; AIF BR 27)

OPC witness Woolridge testified that the 59.6 percent equity ratio as a percentage of investor capital reflected in the Company's filing "is well in excess of the common equity ratios of electric utility companies." (TR 3190; EXH 180, MFR Schedule D-1a; OPC BR 81-82; FRF BR 30) He noted that there is a direct correlation between the relative amount of equity in the capital structure and the revenue requirements the customers are called upon to bear. (TR 3206; FRF BR 30) Witness Woolridge testified that if the proportion of equity is too high, rates will be higher than they need to be. For this reason, he recommended that FPL pursue a capitalization

⁸⁵ Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI, In re: Petition by the Citizens of the State of Florida for a full revenue requirements rate case for Florida Power & Light Company (1999 Agreement).

⁸⁶ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company, pp. 36-42.

⁸⁷ Docket No. 090079-EI, In re: Petition for increase in rates by Progress Energy Florida, Inc., staff recommendation filed November 30, 2009, pp. 146-149.

strategy that strikes a more appropriate balance of equity and debt in the capital structure. (TR 3206; OPC BR 81; FRF BR 32)

OPC recognized that FPL is not proposing to impute equity in its capital structure for purposes of setting rates in this proceeding, but stressed that the “actual adjusted” equity ratio of 55.8 percent is not the equity ratio that the Company has employed to calculate its revenue requirements. (OPC BR 3–4; 81–82) Because FPL’s proposed capital structure ratios do not reflect the actual capitalization of FPL or FPL Group, Inc. (FPL Group) and because the proposed equity ratio is much higher than the equity ratios of other electric utilities, witness Woolridge recommended the Commission recognize a lower equity ratio for ratemaking purposes. (TR 3248–3249, OPC BR 84; FRF BR 32)

FIPUG witness Pollock testified that, at an equity ratio approaching 60 percent, FPL would be one of the least leveraged regulated electric utilities in the nation. (TR 2953–2954; FIPUG BR 30) He also noted that, unlike TECO, FPL did not propose a specific adjustment to equity to recognize imputed debt associated with PPAs. Witness Pollock testified that instead, “FPL seeks to use the imputation argument to support its excessively high common equity ratio.” (TR 2960)

Witness Pollock challenged the testimony of FPL witnesses that it is necessary for the Commission to consider the impact of imputed debt associated with PPAs. (TR 2954) He noted that, due to the Commission’s approval of PPAs and the full and direct recovery of firm energy and purchased power capacity payments through the fuel and capacity cost recovery clauses, there is minimal recovery risk associated with PPAs in Florida. (TR 2954; FIPUG BR 30) Thus, witness Pollock testified that consideration of imputed debt is unnecessary in assessing the reasonableness of FPL’s capital structure. (TR 2960; FIPUG BR 29)

SFHHA witness Baudino testified that, although both FPL witnesses Avera and Pimentel presented FPL’s “adjusted” capital structure as containing 55.8 percent equity, for purposes of this proceeding the Company has proposed to use an equity ratio of almost 60 percent in its ratemaking capital structure. (TR 2610; SFHHA BR 55) He stated that 59.6 percent is the actual equity ratio FPL has proposed be used for ratemaking purposes, not the lower 55.8 percent equity ratio cited in the Company’s testimony. (TR 2609–2610; SFHHA BR 55) Because “FPL’s requested common equity ratio is excessive, is significantly higher than the common equity ratios of similar risk electric companies, and would impose excessive and burdensome costs on ratepayers,” witness Baudino recommended that the Company’s equity ratio be reduced. (TR 2577–2578; SFHHA BR 59; FRF BR 31)

AG adopted the position of OPC on this issue. (AG BR 12–13) Affirm, South Daytona, and FEA took no position on this issue.

ANALYSIS

This issue concerns the difference between the various ways FPL’s test year equity ratio has been presented for purposes of this proceeding. Staff’s recommendation regarding the appropriate equity ratio for purposes of setting rates is discussed in Issue 71.

A company's capitalization can be expressed in a number of ways. (TR 5094; EXH 366) For purposes of financial reporting, a company will report its capitalization in accordance with Generally Accepted Accounting Principles, often referred to as on a "GAAP" basis. (TR 4888) GAAP prescribes specific requirements for how a company's book capital structure will be presented. (TR 3251; EXH 366)

Another way a company's capitalization ratios can be expressed is from the perspective of the rating agencies. (TR 4900) For their own analytical purposes, rating agencies often make adjustments to a company's capitalization ratios to include certain items that are not recorded on the balance sheet and to remove other items that are recorded on the balance sheet pursuant to GAAP. (TR 4848-4849)

Finally, if the company in question is a regulated utility, its capitalization ratios will also be expressed on a Commission-adjusted basis. (TR 4892) These adjustments are made to capital structure and rate base primarily to account for the removal of rate base items that are recovered outside of base rates. (TR 4892)

Due to differences between GAAP requirements, rating agency adjustments, and regulatory requirements, it is common for a company's reported equity ratio to vary. (TR 5094, 5504) Table 70-1 below shows FPL's projected 2010 test year equity ratio as a percentage of investor capital expressed on a GAAP, Standard & Poors' (S&P), and Commission (FPSC) basis.

Table 70-1			
	GAAP	S&P	FPSC
Equity Ratio	55.6%	55.8%	59.6%

(EXH 366)

Annual reports for shareholders as well as filings made with the Securities and Exchange Commission (SEC) are prepared in accordance with GAAP. On a GAAP basis, FPL's capitalization will include the storm recovery bonds issued in 2007 to finance storm restoration costs and replenish the storm reserve.⁸⁸ The annual reports and filings with the SEC will not, however, reflect imputed debt associated with FPL's PPAs in the balance sheet and income statement. (TR 3251, 5174) The capitalization ratios reflected in the GAAP statements are expressed on a year end basis. (TR 5507)

S&P routinely makes adjustments to the financial statements of companies for purposes of its own analytical review. (TR 4848-4849) S&P will make an adjustment to FPL's capitalization to remove the storm recovery bonds because these bonds are non-recourse to the Company. (TR 4849) S&P will also impute debt in FPL's capitalization ratios to reflect the fixed payment obligation associated with FPL's PPAs. (TR 4849) These "adjusted" financial statements are also on an annual basis.

⁸⁸ Order Nos. PSC-06-0464-FOF-EI, issued May 30, 2006, and PSC-06-0626-FOF-EI, issued July 21, 2006, collectively known as the Financing Order, in Docket No. 060038-EI, In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company.

The Commission requires certain adjustments that also impact FPL's capitalization ratios. (TR 4891) For purposes of this proceeding, FPL made adjustments to long-term debt to remove the storm recovery bonds that are recovered through a separate line charge and to remove nuclear fuel capital leases that are recovered through the fuel cost recovery clause. (TR 4892, 5153–5154; EXH 180, MFR Schedule D-1b) With the exception of the adjustment recognized pursuant to the 2005 Stipulation negotiated between the parties to settle PEF's 2005 rate case approved in Order No. PSC-05-0945-S-EI,⁸⁹ base rate-related filings with the Commission do not reflect imputed debt associated with PPAs. For ratemaking purposes, FPL's financial statements are expressed on a 13-month average basis. (TR 4891, 5507)

As demonstrated above, the Company witnesses were technically correct when they stated that FPL's proposed equity ratio for purposes of this proceeding is approximately 55 percent. (TR 5101–5102) However, the Commission is not setting rates for FPL based on its GAAP or S&P adjusted equity ratios. The Commission will determine FPL's overall cost of capital, and therefore its revenue requirements, based on its Commission-adjusted equity ratio of nearly 60 percent. (TR 5483; EXH 180, MFR Schedule D-1a)

CONCLUSION

The subject of this issue is whether FPL has "appropriately described" the 2010 equity ratio as 59.6 percent or 55.8 percent. Staff's recommendation regarding the appropriate equity ratio to use for purposes of setting rates in this proceeding is discussed in Issue 71.

The overall cost of capital approved in this proceeding will be based, in part, on the relative percentage of equity in the Commission-adjusted capital structure multiplied by the authorized return on equity (ROE) approved in Issue 80. (TR 3053, 5098) Staff believes the Commission should find that, while the Company's GAAP and S&P equity ratios may be expressed as 55.6 and 55.8 percent, respectively, the equity ratio reflected in FPL's original MFR filing for purposes of determining revenue requirements in this proceeding is 59.6 percent.

⁸⁹ Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, In re: Petition for rate increase by Progress Energy Florida, Inc., (2005 Stipulation).

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?

Recommendation: The appropriate equity ratio for FPL for ratemaking purposes for the projected 2010 test year is 47.0 percent as a percentage of total capital which equates to an equity ratio of 59.1 percent as a percentage of investor capital. If applicable, the appropriate equity ratio for the projected 2011 subsequent test year is 47.4 percent as a percentage of total capital which equates to an equity ratio of 58.5 percent as a percentage of investor capital. (Maurey)

Position of the Parties

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.

OPC: FPL proposes to use its actual 59% equity ratio. This is far too high, given FPL's low risk profile and the responsibility of an electric utility to minimize revenue requirements borne by customers by employing a reasonable amount of debt leverage in its capital structure. FPL's proposal is far higher than typical electric utilities, who maintain equity ratios in the mid- to high-40s. It is far higher than the equity ratio of FPL's parent, FPL Group, even though FPL Group is considered riskier than FPL. It is also higher than the level FPL projects to carry in the near future. Based on FPL's projections OPC witness Dr. Woolridge uses 54%, but cautions that this figure too is higher than FPL's risk profile would warrant, meaning that the Commission should adjust the allowed return on equity downward to reflect the relatively low financial risk associated with a 54% equity ratio.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL position that its current equity ratio of 55.8% is appropriate and should not be reduced.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The appropriate common equity ratio for FPL is 50.2% on an unadjusted basis. FPL's requested equity ratio of 59.6% is unreasonably high and is over 900 basis points higher than comparably rated utilities. Further, the Commission should reject FPL's request to impute \$949.3 million of debt related to purchase power contracts. Such contracts are a direct pass through to

Date: December 23, 2009

ratepayers and represent no risk to FPL. In the recent TECO rate case, the Commission rejected a similar request for a PPA adjustment.

FRF: Agree with OPC.

SFHHA: FPL should be using a 41.07% equity ratio for ratemaking purposes in this proceeding after consideration of other non-investor supplied cost-free or lower cost sources of capital.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Pimentel testified that it is critical for FPL to maintain its financial strength as it confronts the challenges of meeting significant infrastructure investment requirements during this period of financial uncertainty as the nation comes out of the global economic recession. (TR 4819–4820, 4828; FPL BR 3) He noted that FPL's strong balance sheet has provided continuous access to both short-term liquidity and long-term capital throughout extreme events such as the 2004 and 2005 storm seasons, the spike in natural gas prices, and the disruption in the financial markets in the fall of 2008. (TR 4846; FPL BR 31) Witness Pimentel testified that FPL's current equity ratio provides for the liquidity requirements and financial flexibility necessary to be in a position to fund future storm restoration activities, hedge fuel price volatility, and fund substantial infrastructure investment. (TR 4834, 4846–4847)

In evaluating the adequacy of the capital structure of a company, witness Pimentel testified that rating agencies will take into account major financial commitments that are not reflected on the balance sheet such as long-term purchased power agreements (PPAs). (TR 4849–4950; FPL BR 34; AIF BR 26) FPL witness Avera testified that FPL must be mindful of how the investment community views the Company's capital structure. (TR 4590) He also stressed that, unlike Tampa Electric Company (TECO)⁹⁰ and Progress Energy Florida (PEF),⁹¹ FPL is not requesting that imputed equity be included in its regulatory capital structure. (TR 4591; FPL BR 34) Because rating agencies and the investment community consider the impact of such fixed obligations when assessing the Company's financial position, both witnesses Pimentel and Avera testified that the Commission should consider these obligations when evaluating the reasonableness of FPL's proposed equity ratio. (TR 4443–4446, 4903; FPL BR 34–35; AIF BR 27)

Witness Avera acknowledged that FPL's requested equity ratio is at the upper end of the range of equity ratios for both the companies in his proxy group as well as the investor-owned utilities (IOUs) they own. (TR 4380, 4446–4447, 4619; EXH 144) However, he testified that it is appropriate for FPL to maintain this level of equity given the risks and challenges that the Company faces. (TR 4587, 4619) Witness Pimentel testified that FPL has consistently maintained this relative equity position, on an adjusted basis, since the 1999 Revenue Sharing

⁹⁰ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company, pages 36–42.

⁹¹ Docket No. 090079-EI, In re: Petition for increase in rates by Progress Energy Florida, Inc., staff recommendation filed November 30, 2009, pages 146–149.

Agreement was approved by the Commission in Order No. PSC-99-0519-AS-EI.⁹² (TR 4846; FPL BR 31; AIF BR 28) He also noted that FPL's "adjusted" equity ratio of 55.8 percent has been and continues to be viewed as adequate and appropriate by the investment community. (TR 4854; AIF BR 29)

Witness Pimentel challenged the reasonableness of the recommendations of the intervenor witnesses and cautioned the Commission regarding the adverse impact to the Company and its customers if such recommendations are accepted. (TR 4889) He noted that, in addition to sending a negative signal to the financial community resulting in a reduction in investor confidence in the Florida regulatory environment, a regulatory decision weakening FPL's capital structure by increasing the relative debt ratio would increase dependence on access to external debt financing at a time when FPL already has significant funding requirements for generation and infrastructure development. (TR 4878-4880, 4889) Specifically, witness Pimentel stated that, "if the Commission would accept any of these recommendations, it would be negatively viewed by the rating agencies and the investment community. It would also represent an unexpected change in the historically supportive regulatory climate in Florida." (TR 4890) Because there is value to customers in maintaining a financially strong company, witness Pimentel recommended the Commission use FPL's adjusted equity ratio of 55.8 percent as a percentage of investor capital for purposes of this proceeding. (TR 4846-4847, 4871; FPL BR 3-4; AIF BR 29-30)

OPC witness Woolridge testified that the 59.6 percent equity ratio as a percentage of investor capital reflected in the Company's filing "is well in excess of the common equity ratios of electric utility companies." (TR 3190; EXH 180, MFR Schedule D-1a; OPC BR 81-82) He noted that there is a direct correlation between the relative amount of equity in the capital structure and the revenue requirements the customers are called upon to bear. (TR 3206; FRF BR 30) Witness Woolridge testified that if the proportion of equity is too high, rates will be higher than they need to be. For this reason, he recommended that FPL pursue a capitalization strategy that strikes a more appropriate balance of equity and debt in the capital structure. (TR 3206; OPC BR 81; FRF BR 32)

OPC recognized that FPL is not proposing to impute equity in its capital structure for purposes of setting rates in this proceeding, but stressed that the "actual adjusted" equity ratio of 55.8 percent is not the equity ratio that the Company has employed to calculate its revenue requirements. (OPC BR 3-4; OPC BR 82-84) Because FPL's proposed capital structure ratios do not reflect the actual capitalization of FPL or FPL Group, Inc. (FPL Group) and because the proposed equity ratio is much higher than the equity ratios of other electric utilities, witness Woolridge recommended the Commission recognize a lower equity ratio for ratemaking purposes. (TR 3248-3249, OPC BR 84; FRF BR 32)

Witness Woolridge recommended an equity ratio of 54.4 percent as a percentage of investor capital. (TR 3209; OPC BR 4; FRF BR 3, 30) This equity ratio is based on the average of FPL's projected year end capitalization ratios for 2009 and 2010 as reported on MFR Schedule D-2. (TR 3204-3205; EXH 180, MFR Schedule D-2; EXH 212) Because these year

⁹² Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI, In re: Petition by the Citizens of the State of Florida for a full revenue requirements rate case for Florida Power & Light Company, (1999 Agreement).

end balances differ from the 13-month average balances reported on MFR Schedule D-1a, accomplishment of witness Woolridge's recommended equity ratio would entail adjustments that decrease the relative amount of common equity and increase the relative amounts of long-term and short-term debt. (TR 4904, 4919-4920) Because his recommended capital structure is based on Company book figures, witness Woolridge testified that his equity ratio more accurately reflects the Company's equity ratio as viewed by investors. (TR 3209-3210)

FIPUG witness Pollock testified that, at an equity ratio approaching 60 percent, FPL would be one of the least leveraged regulated electric utilities in the nation. (TR 2953-2954; FIPUG BR 30) He also noted that, unlike TECO, FPL did not propose a specific adjustment to equity to recognize imputed debt associated with PPAs. Witness Pollock testified that instead, "FPL seeks to use the imputation argument to support its excessively high common equity ratio." (TR 2960)

Witness Pollock challenged the testimony of FPL witnesses that it is necessary for the Commission to consider the impact of imputed debt associated with PPAs. (TR 2954) He noted that, due to the Commission's approval of PPAs and the full and direct recovery of firm energy and purchased power capacity payments through the fuel and capacity cost recovery clauses, there is minimal recovery risk associated with PPAs in Florida. (TR 2954; FIPUG BR 30) Thus, witness Pollock testified that consideration of imputed debt is unnecessary in assessing the reasonableness of FPL's capital structure. (TR 2960; FIPUG BR 29)

Witness Pollock testified that a company that has too much equity in its capital structure has a higher cost of capital than a company with a more balanced equity ratio. (TR 2961) All else being equal, he argued that the higher the equity ratio, the higher the rates all FPL customers will bear. (TR 2961; FRF BR 30) Because FPL's proposed equity ratio is much higher than the equity ratios of other electric utilities, witness Pollock recommended the Commission reduce the amount of equity in determining the Company's cost of capital. (TR 2961; FIPUG BR 33; FRF BR 32)

Witness Pollock recommended an equity ratio of 50.2 percent as a percentage of investor capital. (TR 2938; FIPUG BR 33) This equity ratio is based on the average equity ratio for single A-rated electric utilities followed by SNL Financial for the period 2006 through the first quarter of 2009. (TR 2961-2962; FIPUG BR 34) Because FPL is rated single A1 by Moody's Investors Service (Moody's) and single A flat by both Fitch Ratings (Fitch) and Standard & Poors' (S&P), he recommended that the Company's equity ratio should be adjusted to be more comparable to the average equity ratio of other comparably-rated electric utilities. (TR 2938, 2954, 2961-2962; FIPUG BR 5, 34-35; FRF BR 32)

SFHHA witness Baudino testified that, although both FPL witnesses Avera and Pimentel presented FPL's "adjusted" capital structure as containing 55.8 percent equity, for purposes of this proceeding the Company has proposed to use an equity ratio of almost 60 percent in its ratemaking capital structure. (TR 2610; SFHHA BR 55) He stated that 59.6 percent is the actual equity ratio FPL has proposed be used for ratemaking purposes, not the lower 55.8 percent equity ratio cited in the Company's testimony. (TR 2609-2610; SFHHA BR 55) Because "FPL's requested common equity ratio is excessive, is significantly higher than the common equity ratios of similar risk electric companies, and would impose excessive and burdensome

Date: December 23, 2009

costs on ratepayers,” witness Baudino recommended that the Company’s equity ratio be reduced. (TR 2577–2578; SFHHA BR 59; FRF BR 32)

Witness Baudino also testified that approval of an “excessive” equity ratio for FPL could result in customers subsidizing FPL Group’s unregulated affiliate operations. (TR 2619; SFHHA BR 58; FRF BR31) S&P employs a consolidated rating methodology whereby it generally assigns a rating to each entity in an organization based upon the credit profile of the consolidated entity. (TR 5090–5091, 5468) Witness Baudino argued that FPL Group could not maintain a single A rating on a consolidated basis without the support of an excessive FPL equity ratio. (TR 2619; FRF BR 31) He noted the higher debt leverage maintained at the funding vehicle for FPL Group’s unregulated operations (FPL Group Capital) and by FPL Group on a consolidated basis relative to the debt leverage maintained at FPL. (TR 2584, 5412) He also referred to a February 12, 2009 report on FPL wherein S&P cautioned that FPL’s rating could be pressured if FPL Group failed to manage significant risks in its merchant energy and energy marketing and trading operations. (TR 2586) Because the level of equity for ratemaking purposes should reflect the risk associated with regulated operations, not to offset higher debt leverage at the consolidated level, witness Baudino recommended that the Company’s equity ratio be reduced. (TR 2619–2620; SFHHA BR 59)

Witness Baudino recommended that FPL’s equity level be reduced to 50.0 percent on an adjusted basis to conform with the high end of S&P’s debt-to-total capital range consistent with a single A rating. (TR 2611; SFHHA BR 59; FRF 31) He stated that his recommended adjusted equity ratio equates to a ratemaking equity ratio of 53.5 percent. (TR 2614; FRF BR 3, 31) He suggested that this adjustment be accomplished, in part, through an increase in the balance of short-term debt of \$600 million to be consistent with the Company’s short-term debt levels over the last few years. (TR 2611) Witness Baudino concluded that his proposed capital structure strikes an appropriate balance between the interests of Company shareholders and customers, results in an equity ratio consistent with a single A rating, and is supportive of FPL’s credit quality. (TR 2620; SFHHA BR 59; FRF BR 32)

AG adopted the position of OPC on this issue. (AG BR 13) Affirm, South Daytona, and FEA took no position on this issue.

ANALYSIS

This issue concerns the appropriate equity ratio that should be used for ratemaking purposes in this case. The projected 2010 capital structure FPL initially proposed for purposes of setting rates in this proceeding reflected an equity ratio as a percentage of investor capital of 59.6 percent. (EXH 180, MFR Schedule D-1a) Due to a number of Commission-required adjustments, the regulatory equity ratio of 59.6 percent is equivalent to an equity ratio of 55.6 percent on a GAAP basis and 55.8 percent on an S&P adjusted basis. (TR 5098; EXH 366) This proposed equity ratio is also consistent with the equity ratio FPL has maintained, on an adjusted basis, for the last ten years. (TR 5501)

All witnesses that testified on this issue were in agreement that the Commission should approve a rate of return for FPL that maintains its financial integrity and allows the Company continued access to the capital markets under reasonable terms. (TR 2634, 3206, 4819) The disagreement between the witnesses concerned the relative magnitude of the equity ratio

recognized for purposes of determining revenue requirements in this proceeding that is necessary to achieve these results. (TR 2578, 2961, 3206, 4846)

Since the approval of the 1999 Agreement, FPL has consistently maintained the proposed relative level of equity capitalization. (TR 4846, 5501) For the period 1999 through 2008, FPL earned approximately \$8.0 billion in net income. (TR 5493) Over this period, approximately \$4.1 billion was retained by FPL Group and \$3.9 billion was invested in FPL in order to maintain the relative balance of debt and equity in its capital structure that it has proposed be recognized for purposes of this proceeding. (TR 5493)

Unlike the filings by TECO and PEF, FPL is not requesting any adjustment to its regulatory capital structure to offset the impact of imputed debt associated with PPAs. (TR 4903) The Company witnesses have testified that, from the rating agencies' perspective, PPAs represent a debt-like obligation that the Commission should consider when evaluating the reasonableness of the capital structure maintained by FPL. (TR 4903) In addition to the impact PPAs have on the Company's financial flexibility, witness Pimentel also urged the Commission to consider the challenges faced by FPL when determining the appropriate capital structure. These challenges include having the financial strength and flexibility to fund potentially significant storm restoration efforts, to hedge fuel price volatility, and to maintain the ability to raise capital under reasonable terms even during periods of economic uncertainty and market volatility. (TR 4846-4847, 4919)

SFHHA witness Baudino raised the concern that if an "excessive" equity ratio is approved for FPL, it could result in inappropriate cross subsidization through the cost of capital. (TR 2619) The Commission take concerns regarding cross subsidization between regulated and unregulated operations of a consolidated entity very seriously. As in all cases that come before it, the Commission is prohibited from setting rates to make up for losses or inadequate returns of affiliated companies. FPL witness Pimentel explained that intervenor witnesses made inappropriate comparisons between FPL's equity ratio and the equity ratio supporting FPL Group's unregulated operations. (TR 4900-4901) After considering rating agency adjustments for non-recourse project debt and hybrid capital instruments supporting the unregulated operations, debt leverage at FPL Group Capital and FPL Group on a consolidated basis, while still higher than for FPL, is not as pronounced as a comparison of their respective book capitalizations might suggest. (TR 4901, 5144-5145, 5413) Moreover, to the extent the Commission approves an equity ratio for FPL that represents the high end of the range of ratios for other, comparably situated electric utilities, it is staff's recommendation in Issue 80 that this lower financial risk position be recognized when the Commission sets the authorized return on equity (ROE) in this proceeding. (TR 3208; OPC BR 84; FRF BR 30)

FPL's position of financial strength has served it and its customers by holding down the Company's cost of capital. (TR 4373, 4743-4744, 4832, 4846, 4871, 5501) During the recent volatility in the capital markets, many companies experienced sharp spikes in their cost to borrow. (TR 4741-4742) In some instances, companies had to accept rates as high as 10 percent to issue bonds. (TR 5055) In the case of FPL, however, due to its strong financial position it was able to sell 30-year bonds at rates under 6 percent during 2008 and 2009 despite the significant disruption in the credit markets. (TR 4742-4744)

The goal of an appropriate equity ratio and capital structure is to minimize the overall weighted average cost of capital and to maintain consistent access to capital under reasonable terms. (TR 5317, 6694) This is an important consideration in that it's the overall cost of capital that is used to determine revenue requirements and ultimately customer rates. (TR 4874, 5483, 6688) The overall cost of capital of 8.29 percent approved in the TECO case was based on an ROE of 11.25 percent and an equity ratio of 54.0 percent as a percentage of investor capital.⁹³ Due to its ability to raise capital from a position of financial strength, even at the proposed ROE of 12.5 percent and an equity ratio of 59.1 percent, FPL's requested overall cost of capital is 7.85 percent.⁹⁴ (TR 4874; EXH 480) Staff's recommendations regarding the appropriate ROE and overall cost of capital for FPL are discussed in Issues 80 and 81, respectively.

CONCLUSION

Staff recommends the capital structures shown on Schedules 2A and 2B. These capital structures reflect equity ratios as a percentage of investor capital of 59.1 percent for 2010 and 58.5 percent for 2011. While these relative levels of equity are near the top of the range of equity ratios of the IOUs owned by the companies in witness Avera's proxy group, they are still within the range of equity ratios of comparably rated IOUs. In addition, these equity ratios are consistent with the relative level of equity FPL has maintained, on an adjusted basis, over the past decade. The recommended equity ratios are supported by competent and substantial evidence in the record.

While the equity ratio and authorized ROE are discussed in two separate issues, staff believes equity ratio and ROE are inextricably related. Staff's recommended ROE of 10.75 percent discussed in Issue 80 is implicitly linked to the equity ratio recommended herein. If a decision is made to adopt a higher or lower equity ratio, staff's recommendation regarding ROE may decrease or increase accordingly to recognize the decrease or increase in financial risk.

⁹³ Order No. PSC-09-0571-FOF-EI, issued August 21, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company, page 34.

⁹⁴ In its original filing, FPL requested an overall cost of capital of 8.00 percent for 2010 and 8.18 percent for 2011. (EXH 180, MFR Schedule D-1a) FPL lowered its requested overall cost of capital to 7.85 percent for 2010 and 8.06 percent for 2011 principally due to the recognition of additional zero cost accumulated deferred income taxes (ADITs) in the capital structure. (TR 3708-3711, 4873-4874; EXH 358; EXH 480) The net impact of the net increase in the balance of ADITs (discussed in Issue 64) and the decrease in the balance of investment tax credits (ITCs) (discussed in Issue 66) lowered FPL's Commission-adjusted equity ratio as a percentage of investor capital from 59.6 percent to 59.1 percent for 2010 and from 58.9 percent to 58.5 percent for 2011. (EXH 480)

Issue 72: Do FPL's power purchase contracts justify or warrant any changes to FPL's capital structure in the form of imputed debt or equity for ratemaking purposes?

A. For the 2010 projected test year?

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

Ruling: Subsumed in Issues 70 and 71.

Date: December 23, 2009

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?

Recommendation: The appropriate capital structures for the 2010 projected test year, and if applicable, the 2011 subsequent test year, are shown on Schedules 2A and 2B, respectively. (Springer)

Position of the Parties

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.

OPC: A. For regulatory purposes, the appropriate 2010 capital structure is 43.64% common equity (Dr. Woolridge's 54%, after certain separate regulatory items are added to capital structure); 33.51% Long-term Debt; 3.00% Customer Deposits; 3.02% Short-term Debt; 16.52% Deferred Income Taxes; 0.31% ITCs.

B. If the strenuously opposed subsequent 2011 adjustment is considered, the appropriate capital structure is 42.68% common equity; 34.25% Long-term Debt; 2.93% Customer Deposits; 2.60% Short-term Debt; 16.69% Deferred income Taxes; 0.86% ITCs.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: AIF supports FPL's position that the proper capital structure is presented by MFR D-1A and subject to the adjustments of Exhibit KO-16 and other stipulations asserted during the rate hearings.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: See Issues 71-72.

FRF: Agree with OPC.

SFHHA: The appropriate capital structure for FPL in this proceeding is 41.07% common equity; 32.38% Long Term Debt; 3.62% Customer Deposits; 3.44% Short Term Debt; 19.13% Deferred Income Taxes; 0.36% Investment Tax Credits. Customer Deposits, Deferred Income

Date: December 23, 2009

Taxes and Investment Tax Credits are jurisdictional to the FPL retail ratepayers and should not be reduced for "prorata adjustments" to reconcile the company's capitalization to rate base.

Staff Analysis:

PARTIES' ARGUMENTS

FPL proposed specific adjustments to long-term debt, common equity, and deferred income taxes in its original capital structure as shown in MFR Schedule D-1a. (EXH 180, Schedule MFR D-1a) FPL made a specific downward adjustment to the balance of long-term debt in the amount of (\$907,863,000). (EXH 180, Schedule MFR D-1a, Schedule D-1b) This amount of (\$907,863,000) was comprised of (\$374,898,000) in nuclear fuel capital leases, (\$1,110,000) for prepayment interest on commercial paper, and (\$531,855,000) for storm bonds. (EXH 180, Schedule D-1b, TR 3642) FPL witness Ousdahl explained that FPL Fuels, Inc. was established for the purpose of financing the acquisition of nuclear fuel and then subsequently leasing the fuel to FPL. (TR 3642-3643) However, the rating agencies no longer give off-balance sheet treatment to commercial paper issued by FPL Fuels, Inc. and changes in accounting rules now require FPL to consolidate FPL Fuels, Inc. into its financial statements, so there is no longer any benefit to maintain a separate fuel company. (TR 3643) Therefore, for the reasons above FPL intends to dissolve FPL Fuels, Inc. on or before January 1, 2010. (TR 3643)

FPL proposed a specific net downward adjustment to deferred taxes in the amount of (\$259,006,000) comprised of (\$332,507,000) for storm deficiency recovery and \$73,501,000 for accumulated provision for property and storm insurance. (EXH 180, Schedule MFR D-1a, Schedule D-1b) Additionally, FPL proposed making a specific downward adjustment to remove nonutility property from common equity in the amount of (\$9,519,000). (EXH 180, Schedule MFR D-1a, Schedule D-1b)

Subsequent to its original filing, the Company revised its specific adjustments to long-term debt and deferred income taxes, and proposed a new adjustment to investment tax credits as discussed in Issue 66. (TR 3708; EXH 358, EXH 480) FPL's proposed adjustment to remove solar plant amounts from base rates for clause recovery did not include the removal of the related investment tax credits from the capital structure. (EXH 358) Correction of this error resulted in a decrease to the investment tax credits in the amount of \$57,622,486 in 2010 and \$188,709,329 in 2011. (TR 3709; EXH 358) In addition, a proposed adjustment to reflect the impact of the American Recovery and Reinvestment Act of 2009 (Stimulus Bill) that were not known at the time of the original filing resulted in an increase in accumulated deferred income taxes in the amount of \$288,261,000 in 2010 and \$257,087,000 in 2011. (TR 3708-3709) Finally, FPL inadvertently excluded the impact to accumulated deferred income taxes resulting from the company adjustment to include the impact of the change in depreciation rates specified by its depreciation filing. (EXH 358) Correction of this error resulted in a decrease in the accumulated deferred income tax liability for the test year in the amounts of \$16,508,000 in 2010 and \$50,938,000 in 2011. (EXH 358; EXH 480)

As discussed in greater detail in Issue 71, FPL witness Pimentel proposed utilizing FPL's actual adjusted equity ratio of 55.8 percent. (TR 4846; FPL BR 31) He testified that FPL has consistently maintained this relative equity position, on an adjusted basis, since the 1999

Date: December 23, 2009

Revenue Sharing Agreement was approved by the Commission in Order No. PSC-99-0519-AS-EI.⁹⁵ (TR 4846; FPL BR 31)

OPC witness Woolridge asserted that FPL included imputed debt of \$950 million in its adjusted capital structure as a means of justifying its extremely high common equity ratio that is unwarranted and serves to mask a very high equity ratio. (TR 3190) Witness Woolridge recommended an equity ratio of 54.4 percent as a percentage of investor capital. (TR 3209, OPC BR 4) This equity ratio was based on the average of FPL's projected year end capitalization ratios as reported on MFR Schedule D-2. (TR 3204-3205; EXH 212) Witness Woolridge testified that the 59.6 percent equity ratio as a percentage of investor capital reflected on MFR Schedule D-1a "is well in excess of the common equity ratios of electric utility companies." (TR 3190; EXH 180, MFR Schedule D-1a; OPC BR 81-82)

FIPUG witness Pollock recommended an equity ratio of 50.2 percent as a percentage of investor capital. (TR 2938; FIPUG BR 33) This equity ratio is based on the average equity ratio for single A-rated electric utilities followed by SNL Financial for the period 2006 through the first quarter of 2009. (TR 2961-2962; FIPUG BR 34) FIPUG witness Pollock asserted that his proposed equity ratio of 50.2 percent is comparable to the equity ratios of other comparably-rated electric utilities. (TR 2938)

AIF supported FPL's position on this issue. (AIF BR 28) AG and FRF adopted OPC's position on this issue. (AG BR 13; FRF BR 93) FIPUG's referenced Issues 71-72. (FIPUG BR 29) Affirm, South Daytona, and FEA took no position on this issue.

ANALYSIS

This issue addresses the appropriate capital structure for ratemaking purposes for the projected 2010 test year and the subsequent projected 2011 test year. FPL proposed a capital structure for the projected 2010 test year that reflected an equity ratio as a percentage of investor capital of 59.6 percent. (EXH 180, MFR Schedule D-1a) FPL proposed a capital structure for the subsequent 2011 test year that reflected an equity ratio as a percentage of investor capital of 58.9 percent. (EXH 180, MFR Schedule D-1a)

As discussed in Issue 71, staff recommends the capital structures shown on Schedules 2A and 2B. These capital structures reflect equity ratios as a percentage of investor capital of 59.1 percent for 2010 and 58.5 for 2011. While this relative level of equity is near the top of the range of equity ratios of the IOUs owned by the companies in FPL witness Avera's proxy group, it is still within the range of equity ratios of comparably rated IOUs. In addition, this equity ratio is consistent with the relative level of equity FPL has maintained, on an adjusted basis, over the past decade. (TR 4846)

CONCLUSION

Staff concurs with the Company regarding the proposed specific adjustments to long-term debt, common equity, deferred income taxes, and investment tax credits as detailed on

⁹⁵ Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI, In re: Petition by the Citizens of the State of Florida for a full revenue requirements rate case for Florida Power & Light Company.

Schedules 2A and 2B. Accordingly, staff recommends that the appropriate capital structures for the purpose of setting rates in this proceeding are based on FPL's projected 2010 and 2011 capital structures with certain adjustments as discussed in Issues 64, 66, and 69. The appropriate capital structures for 2010, and if applicable 2011, are shown on Schedules 2A and 2B, respectively.

Date: December 23, 2009

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

Ruling: Subsumed in Issue 80.

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

Ruling: Subsumed in Issue 80.

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

Ruling: Subsumed in Issue 80.

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

Ruling: Subsumed in Issue 80.

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

Ruling: Subsumed in Issue 80.

Issue 79: Is it appropriate to adjust the equity cost rate for flotation costs?

Ruling: Subsumed in Issue 80.

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?

Recommendation: The appropriate return on equity (ROE) for the projected 2010 test year is 10.75 percent with a range of plus or minus 100 basis points. If applicable, staff recommends the same ROE and range be used for the 2011 subsequent test year. (Maurey)

Position of the Parties

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.

OPC: FPL's request grossly overstates the return on equity currently required to attract equity investors. Taking into consideration the proper application of a discounted cash flow analysis, a reasonable and credible premium above current risk-free rates required by equity investors, and FPL's low risk-as exemplified by its high equity ratio and the 61% of revenues through cost recovery clauses, a fair and reasonable return on equity for FPL is 9.5%.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL position that 12.5% return on common equity for both 2010 and 2011 should be authorized by the PSC.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: FPL's request for an ROE of 12.5% is unreasonable and should be rejected given financial conditions today. Further, FPL's ROE should not be increased for "good" service. As a monopoly provider, it is part of FPL's regulatory compact to provide quality service. It should not be "rewarded" for doing what it is required to do. FPL's ROE should be set no higher than 9.5% as recommended by Public Counsel's witness.

FRF: A. 9.5%.

B. The Commission should not grant a subsequent year adjustment for 2011. If granted, the appropriate ROE is 9.5%.

SFHHA: The Commission should authorize a 10.4% return on equity in this case.

Staff Analysis:

PARTIES' ARGUMENTS

Four witnesses testified in this proceeding regarding the appropriate return on equity (ROE) for FPL. FPL witness Avera testified that a reasonable ROE for FPL is in the range of 12.0 percent to 13.0 percent. (TR 4442; FPL BR 45) FPL witness Pimentel, while not conducting his own independent analysis of the appropriate ROE for FPL, recommended the midpoint of witness Avera's recommended range, or 12.5 percent, as the appropriate ROE for FPL for purposes of this proceeding. (TR 5224–5225, 5375; FPL BR 10; AIF BR 30) OPC witness Woolridge recommended an ROE of 9.5 percent. (TR 3246; OPC BR 84; FIPUG BR 35; FRF BR 20) SFHHA witness Baudino recommended an ROE of 10.4 percent. (TR 2576; FRF BR 20; SFHHA BR 60–61) As expressly stated in the 2005 Settlement, FPL does not currently have an authorized ROE.⁹⁶ However, for purposes other than reporting or assessing earnings (such as cost recovery clauses and AFUDC), the 2005 Settlement provided for FPL to use an ROE of 11.75 percent. (FRF BR 27)

AG adopted the position of OPC on this issue. (AG BR 13) Affirm, South Daytona, and FEA took no position on this issue.

The statutory principles for determining the appropriate rate of return for a regulated utility are set forth by the U.S. Supreme Court in its Hope and Bluefield decisions.⁹⁷ (TR 2588, 4378–4379; FPL BR 15; FRF BR 22) These decisions define the fair and reasonable standards for determining rate of return for regulated enterprises. Namely, these decisions hold that the authorized return for a public utility should be commensurate with returns on investments in other companies of comparable risk, sufficient to maintain the financial integrity of the company, and sufficient to maintain its ability to attract capital under reasonable terms. (TR 2588, 4378–4379; FPL BR 11; AIF BR 31; FIPUG BR 37; FRF BR 22)

While the logic of the legal and economic concepts of a fair rate of return are fairly straightforward, the actual implementation of these concepts is controversial. Unlike the cost rate on debt that is fixed and known due to its contractual terms, the cost of equity is a forward-looking concept and must be estimated. (TR 2640–2641, 3217, 4405; OPC BR 84) Financial models have been developed to estimate the investor-required ROE for a company. (TR 3211, 4376–4378; OPC BR 85; SFHHA BR 61) Market-based approaches such as the Discounted Cash Flow (DCF) model, Capital Asset Pricing Model (CAPM), and ex ante Risk Premium (RP) model are generally recognized as being consistent with the market-based standards of a fair return enunciated in the Hope and Bluefield decisions. (TR 3211, 4376–4378; FPL BR 45)

⁹⁶ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, p. 3, (2005 Settlement).

⁹⁷ Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591 (1944); and Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 679 (1923).

Discounted Cash Flow Model

Three witnesses used the DCF model to estimate the investor-required ROE for FPL. Because FPL is a wholly-owned subsidiary of FPL Group, Inc. (FPL Group), its common stock is not publicly traded. (TR 2582, 2711, 4410) To apply the model, each witness had to select a group of companies with publicly traded stock to serve as a proxy for FPL. (TR 2592, 3201, 4407)

FPL witness Avera

FPL witness Avera applied the DCF model to two proxy groups he determined to be comparable in risk to FPL. To select his first group of companies, witness Avera started with all electric utilities followed by Value Line Investment Survey (Value Line). (TR 4407) From this initial sample, he eliminated all companies that did not have at least a triple B plus corporate credit rating from Standard & Poors' (S&P), a Value Line safety rank of 1 or 2, a Value Line financial strength rating of B++ or better, and at least two published earnings per share (EPS) growth projections from Value Line, Thomson I/B/E/S (IBES), First Call Corporation (First Call), and Zacks Investment Research (Zacks). Based on this selection criteria, witness Avera identified a proxy group of 19 utility companies (the Utility Proxy Group) that he testified reflect the risks and prospects associated with FPL's jurisdictional utility operations. (TR 4407) To select his second proxy group, witness Avera started with all companies followed by Value Line. (TR 4408) From this sample, he eliminated all companies that did not pay a dividend, had a Value Line safety rank less than 1, had a financial strength rating less than A, did not have an investment grade credit rating from S&P, and that did not have at least two published EPS growth projections from Value Line, IBES, First Call, and Zacks. (TR 4408) Based on this selection criteria, witness Avera identified a proxy group of 66 non-utility companies (the Non-Utility Proxy Group). (EXH 138) Considering the various measures of business and financial risk for the two proxy groups, witness Avera concluded that investors would likely view the overall investment risk of FPL to be comparable to the investment risks of the companies in both proxy groups. (TR 4410-4411)

Witness Avera used the constant growth DCF model to estimate the cost of equity for FPL. (TR 4413) He derived the expected dividend yields from information published in December 2008 editions of Value Line. (EXH 136) The dividend yields for the companies in the Utility Proxy Group ranged from 2.8 percent to 6.4 percent and averaged 6.0 percent for the group. (TR 4413; EXH 136) The dividend yields for the companies in the Non-Utility Proxy Group ranged from 0.55 percent to 13.60 percent and averaged 3.52 percent for the group. (EXH 138) He relied on security analyst EPS growth projections from Value Line, IBES, First Call, and Zacks as of January 2009 and the expected growth rate as measured by the sustainable growth approach to estimate the growth rate used in his DCF analysis. (TR 4417, 4420; EXH 136) The growth rates for the companies in the Utility Proxy Group ranged from 0.0 percent to 12.0 percent. (EXH 136) The growth rates for the companies in the Non-Utility Proxy Group ranged from (1.2) percent to 18.9 percent. (EXH 138) The average of the growth rates used in his DCF analyses were 6.3 percent for the Utility Proxy Group and 10.1 percent for the Non-Utility Proxy Group. (EXH 136; EXH 138) In evaluating the results of his DCF analyses, he determined it was appropriate to eliminate cost of equity estimates that were determined to be "extreme outliers." (TR 4421) After eliminating "illogical low- and high-end values," the average results of witness Avera's DCF analysis applied to the Utility Proxy Group ranged from

10.6 percent to 11.5 percent. (TR 4424; EXH 136) After applying the DCF model to the Non-Utility Proxy Group in the same manner, the average indicated returns ranged from 12.9 percent to 13.4 percent. (TR 4424; EXH 138)

OPC witness Woolridge

To select his group of comparable companies, OPC witness Woolridge started with all electric and combination electric and gas utilities followed by Value Line and AUS Utility Reports (AUS). (TR 3201) From this initial sample, he removed all companies that did not have an investment grade bond rating from Moody's Investors Service (Moody's) and/or S&P, and a three year history of paying dividends. (TR 3201) He further narrowed his proxy group by focusing on companies with annual operating revenues of at least \$5 billion and that generate at least 70 percent of their operating revenues from regulated electric operations. (TR 3201) Based on this selection criteria, witness Woolridge identified a group of 10 comparable companies for use in his analysis. (TR 3201)

Witness Woolridge used the constant growth DCF model. (TR 3221) He relied on dividend yields for the six month period ended July 2009 and for the month of July 2009 as reported by AUS Utility Reports. (TR 3223) The expected dividend yield used in his analysis was 4.83 percent. (EXH 217) He relied on Value Line's historical and projected growth rate estimates for EPS, dividends per share (DPS), and book value per share (BVPS). In addition, he used the average EPS growth rate forecasts from First Call, Zacks, and Reuters and the expected growth rate as measured by the earnings retention method. (TR 3225) The average growth rate used in his analysis was 5.50 percent. (TR 3229; EXH 217) The indicated return from witness Woolridge's DCF analysis was 10.33 percent. (TR 3230)

SFHHA witness Baudino

To select his group of comparable companies, SFHHA witness Baudino started with all electric companies followed by AUS with at least a single A rating from Moody's and S&P. (TR 2592) From this initial sample, he selected companies that generated at least 50 percent of their revenues from regulated electric operations and that had EPS growth forecasts from Value Line and either Zacks or First Call. He further narrowed his proxy group by removing all companies that had recently cut or eliminated dividends, were recently or currently involved in merger activities, or had recent experience with significant earnings fluctuations. (TR 2593) Based on this selection criteria, witness Baudino identified a group of 14 companies that he believed had a risk profile that is reasonably similar to FPL. (TR 2592, 2594; EXH 283)

Witness Baudino used the constant growth DCF model. (TR 2591) He derived the dividend yields used in his analysis based on information for the six month period ended June 2009 as reported by Yahoo! Finance. (TR 2594) The monthly average dividend yields for the group ranged from 4.75 percent to 5.66 percent. (TR 2595) The average expected dividend yield used in his analysis was 5.45 percent. (EXH 283) He relied on Value Line projected EPS and DPS growth rate estimates. In addition, he used EPS growth rate forecasts from Zacks and First Call. (EXH 283) Witness Baudino ran his DCF model under three slightly different growth rate assumptions. In method 1, he calculated the average of all growth rates from Value Line, Zacks, and First Call. (TR 2598) In method 2, he calculated the median growth rate for his proxy group. (TR 2598) In method 3, he omitted double digit growth rates and growth rates that were less

than 1 percent from the calculation of the averages. (TR 2598) The expected growth rates produced by all three methods fell in the range of 3.75 percent to 6.25 percent. (TR 2599) Method 1 produced an indicated cost of equity range of 9.72 percent to 11.64 percent with an average of 11.01 percent and a midpoint of 10.68 percent. (EXH 283) Method 2 produced an indicated cost of equity range of 9.10 percent to 11.66 percent with an average of 10.80 percent and a midpoint of 10.38 percent. (EXH 283) Method 3 produced an indicated cost of equity range of 10.49 percent to 11.43 percent with an average of 11.13 percent and a midpoint of 10.96 percent. (EXH 283) Based on this analysis, witness Baudino testified that his DCF analysis indicated a range of returns of 10.38 percent to 11.13 percent and he recommended the Commission adopt an ROE of 10.40 percent for FPL. (TR 2607)

Rebuttal

Both witnesses Woolridge and Baudino presented testimony challenging the reasonableness of certain aspects of witness Avera's DCF analysis. (TR 2621-2627, 3252-3262) In turn, witness Avera presented testimony challenging the reasonableness of certain aspects of their analyses. (TR 4454-4464) All three witnesses used the same constant growth version of the DCF model. And with the exception of witness Avera's Non-Utility Proxy Group, all three witnesses used relatively similar estimates of dividend yields. The primary reason for the difference in the indicated DCF returns is attributed to differences in their respective estimates of the growth rate to include in the DCF model. (TR 4504; EXH 136; EXH 138; EXH 217; EXH 283)

Both witnesses Woolridge and Baudino testified that the results of witness Avera's DCF analysis based on the Non-Utility Proxy Group is not appropriate to estimate the ROE for the regulated operations of FPL. (TR 2623, 3254) Witness Woolridge testified that, because the companies in the Non-Utility Proxy Group are large and successful, have lines of business vastly different from the electric utility business, and do not operate in a highly regulated environment, "the non-utility group is not an appropriate proxy for FPL, and therefore the equity cost rate results for this group should be ignored." (TR 3254) Witness Baudino testified that non-utility companies have higher overall risk structures than a low-risk electric utility like FPL and will have higher required returns from their shareholders. (TR 2624) Given the greater degree of business risk for the non-utility companies, he stated that it should be expected that witness Avera's DCF results for his Non-Utility Proxy Group would be substantially higher than the results for his Utility Proxy Group. (TR 2624) Witness Baudino concluded that "using higher required returns from a group of unregulated companies is obviously unjustified, inflates FPL's required ROE, and should be rejected by the Commission." (TR 2624)

Witness Avera countered that his Non-Utility Proxy Group was screened to have corresponding risk indicators with FPL and is comprised of 66 of the best known and most stable corporations in America. (TR 4464) He stated that the Hope and Bluefield decisions dictate that the allowed return be consistent with returns on investments of comparable risk but that neither decision restricted consideration to only utilities. (TR 4466) Because utilities compete with unregulated companies for capital and his Utility and Non-Utility Proxy Groups are comparable in risk, witness Avera argued Commission consideration of the results of both DCF analyses is consistent with the regulatory standard established by Hope and Bluefield. (TR 4407-4408)

Capital Asset Pricing Model

Three witnesses also performed a CAPM analysis. For the reason discussed earlier, the witnesses used their respective proxy groups for certain inputs to their CAPM analysis.

FPL witness Avera

FPL witness Avera performed an ex ante, or forward-looking, CAPM analysis. (TR 4425) For the estimate of the risk-free rate, he used the average yield on 20-year Treasury bonds for December 2008 of 3.2 percent. (TR 4426) For the estimate of the company-specific risk, or beta, he used the average beta for his two proxy groups. The average beta for the Utility Proxy Group was .73 and the average beta for the Non-Utility Proxy Group was .84. (TR 4410) Witness Avera relied on Value Line for his estimates of beta. (EXH 140; EXH 141) He derived a market risk premium of 10.0 percent based on a DCF analysis of the dividend paying companies in the S&P 500. (TR 4426) Witness Avera's CAPM analyses indicated returns of 10.5 percent for the Utility Proxy Group and 11.5 percent for the Non-Utility Proxy Group. (TR 4427)

OPC witness Woolridge

OPC witness Woolridge also performed an ex ante CAPM analysis. (EXH 218) For the risk-free rate, he used an estimate of the forward-looking yield on 30-year U.S. Treasury bonds of 4.50 percent. (TR 3232) For beta, he used the average Value Line beta for his group of proxy companies of .70. (TR 3234) He determined an expected risk premium of 4.36 percent based on the results of various studies of historical risk premium, ex ante risk premium studies, and equity risk premium surveys. (TR 3234-3246) Witness Woolridge's CAPM analysis indicated an ROE of 7.6 percent. (TR 3246)

SFHHA witness Baudino

SFHHA witness Baudino performed both an ex ante and an ex post, or historical, CAPM analysis. (TR 2606) For the estimate of the risk-free rate, he used both the average yield on 5-year Treasury notes and 20-year Treasury bonds for the 6 months ended June 2009 of 2.00 percent and 3.94 percent, respectively. (EXH 284) For the estimate of beta, he used the average beta for his proxy group of .69 as reported by Value Line. (TR 2606) Witness Baudino derived a market risk premium range of 6.47 percent (based on the yield on 20-year Treasury bonds) to 8.41 percent (based on the yield on 5-year Treasury notes) for purposes of his ex ante CAPM. For purposes of his ex post CAPM, he relied on historical, earned returns from Ibbotson Associates to determine a market risk premium range of 4.40 percent to 5.97 percent. (TR 2606) Witness Baudino's analysis indicated a range of returns of 7.77 percent to 8.38 percent for the ex ante CAPM and 6.96 percent to 8.03 percent for the ex post CAPM. (TR 2606)

Rebuttal

Both witnesses Woolridge and Baudino presented testimony challenging the reasonableness of certain aspects of witness Avera's CAPM analysis. (TR 2628-2629, 3262-3266) In turn, witness Avera presented testimony challenging the reasonableness of certain

aspects of their analyses. (TR 4454–4464) With the exception of witness Baudino’s ex post CAPM analysis, all three witnesses used the ex ante CAPM model.

Witness Woolridge testified that witness Avera’s CAPM analysis overstated the required return for FPL because of its application to a non-utility proxy group and its reliance on an excessive market risk premium. (TR 3262–3263) For the same reasons discussed above in the section on the DCF model, witness Woolridge testified that witness Avera’s group of non-utility companies is not an appropriate proxy to estimate the required return for FPL. (TR 3263) Witness Woolridge also testified that witness Avera’s estimate of a market risk premium of 10.0 percent is well in excess of the equity premium demanded by the market. (TR 3266)

Witness Baudino testified that witness Avera’s CAPM analysis overstated the required return for the market, and by extension, the market risk premium. (TR 2628) Witness Avera estimated a market return of 13.2 percent and a market risk premium of 10.0 percent based on his “market” of the 346 dividend paying stocks in the S&P 500. (EXH 140) Witness Baudino argued that if witness Avera had used a broader “market,” such as the Value Line universe of companies as he had done, witness Avera’s analysis would have produced results closer to the estimated market return of 10.4 percent and market risk premium of 6.5 percent reflected in witness Baudino’s analysis. (TR 2628; EXH 284)

Witness Avera testified that the CAPM cost of equity estimates of witnesses Woolridge and Baudino are “significantly downward biased.” (TR 4455) He also disputed their testimony regarding his methodology, stating that “the forward-looking estimate of the market rate of return used in my CAPM analysis is entirely consistent with the requirements of this approach and there is no basis to claim that it is overstated.” (TR 4469)

Expected Earnings Approach

In addition to the DCF and CAPM analyses, FPL witness Avera also performed an Expected Earnings Approach. (TR 4430) He testified that reference to rates of return available from alternative investments of comparable risk can provide an important benchmark in assessing the return necessary to assure confidence in the financial integrity of a company and its ability to attract capital. (TR 4430) He also stated that the Expected Earning Approach is consistent with the standards for a fair rate of return while avoiding the complexities and limitations of the equity cost models discussed above. (TR 4431) As reported in the relevant November and December 2008 editions of Value Line, the expected returns on equity for the companies in his Utility Proxy Group ranged from 8.1 percent to 15.9 percent and averaged 11.7 percent for the group. (TR 4431; EXH 142) Witness Avera also noted that Value Line projected an average return on equity for the entire electric industry of 11.5 percent for 2009 and over its 2011 – 2013 forecast horizon. (TR 4431)

Both OPC witness Woolridge and SFHHA witness Baudino challenged the reasonableness of this approach for estimating the investor required ROE for FPL. (TR 2629–2630, 3266–3267) Witness Woolridge testified that witness Avera’s Expected Earnings Approach “is fundamentally flawed.” (TR 3266) He stated that many of the companies in witness Avera’s Utility Proxy Group have significant unregulated operations and therefore the results of this approach are unduly influenced by the profits associated with these unregulated operations. (TR 3266) Witness Woolridge also noted that because witness Avera did not

evaluate the market-to-book ratios for these companies, he cannot determine whether the past and projected returns on book equity are above or below investor required returns. (TR 3266–3267) To the extent the market-to-book ratios for these companies are above 1.0, witness Woolridge testified that the indicated return from this approach would exceed investors' required return. (TR 3267)

Witness Baudino testified that all witness Avera did in this approach was report Value Line's forecasted return on book equity for 2009 and the period 2011 – 2013. (TR 2629) He stated that forecasted returns on book equity may have nothing whatsoever to do with investors' required returns in the market place. (TR 2629) Witness Baudino testified the Commission should reject this approach and recommended the Commission utilize the range of returns produced by the DCF model in setting FPL's ROE in this proceeding. (TR 2629–2630)

Witness Avera countered that the Expected Earnings Approach he used is consistent with both sound regulatory policy and the legal standards set forth in the Hope and Bluefield decisions. (EXH 363, BSP 53) He also testified that there is no clear link between market-to-book ratios for electric utilities and allowed returns. (EXH 363, BSP 54) Finally, witness Avera stated that neither witness demonstrated how the criterion of revenues from electric operations translated into differences in the investment risk perceived by investors. (EXH 363, BSP 1)

Other Considerations

Company Arguments

FPL witness Avera testified that the results of his various analyses indicated that the cost of equity for FPL was in the range of 11.0 percent to 13.0 percent. (TR 4441) In addition to the results of these quantitative analyses, he stressed that it was important for the Commission to consider additional factors such as FPL's need to remain financially strong so it will have the ability to absorb potential financial shocks due to storm damage, fuel price volatility, and disruptions in energy supply. (TR 4441) He also noted the challenging capital market environment and FPL's need to finance significant infrastructure investment as factors the Commission should consider when setting FPL's ROE. (TR 4441)

Witness Avera also testified that when a company raises equity through the sale of common stock, there are costs incurred. These flotation costs include services such as legal, accounting, and printing as well as other fees paid to brokers. (TR 4432) He stated that, while debt issuance costs are recorded on the books of the company, amortized over the life of the issue, and recovered through the cost of debt, there is no similar accounting treatment to ensure equity flotation costs are recorded and ultimately recognized. (TR 4432) He cautioned that unless some provision is made to recognize these issuance costs, a company's revenue requirements will not fully reflect all of the costs incurred for the use of investors' funds. (TR 4433) For this reason, witness Avera recommended incorporating a 25 basis point adjustment in determining a reasonable ROE range for FPL. (TR 4434)

Witness Avera testified that, based on the need to remain financially strong as well as the need to recognize a 25 basis point adjustment for flotation costs, a reasonable ROE for FPL fell in the range of 12.0 percent to 13.0 percent. (TR 4442, 4471) In light of FPL's "exemplary management," he recommended that it would be "entirely consistent with regulatory economics

and past incentive mechanisms approved by the FPSC” to consider this performance when establishing a fair ROE for FPL in this range. (TR 4373, 4442)

Finally, FPL witness Pimentel testified that there are several risk factors that are unique to FPL that should be considered by the Commission in the determination of the Company’s ROE. (TR 4875) From the viewpoint of investors, witness Pimentel argued that FPL is more risky than other IOUs due to its geographic location, capital expenditure program, fuel supply and mix, nuclear generation, and Florida’s economy. (TR 4875) He testified that witness Woolridge’s and witness Baudino’s recommended returns are inconsistent with the authorized ROE of 11.25 percent recently awarded to Tampa Electric Company (TECO).⁹⁸ (TR 4876) Because FPL is exposed to significantly greater risk in a number of areas when compared to TECO, witness Pimentel concluded that FPL “warrants a strong financial position and higher return on equity to meet our obligations to serve our customers.” (TR 4876)

Intervenors’ Response

OPC witness Woolridge testified that it is not necessary to make an upward adjustment to the cost of equity for the recovery of flotation costs. (TR 3267) He stated that FPL has not identified any actual flotation costs for the Company. (TR 3267) In addition, because electric utilities have market-to-book ratios in excess of 1.0x, he testified that there should be a flotation cost reduction (and not increase) to the equity cost rate. (TR 3267–3268) Finally, he argued that investors also incur transaction costs when they purchase shares. If these transaction costs are taken into account, the price of shares would be higher. If these transaction costs were included in the DCF analysis, the higher effective stock prices paid for stocks would have led to lower dividend yields. This would have resulted in a downward adjustment to the DCF equity cost rate. (TR 3269) For these reasons, witness Woolridge testified that it is unnecessary to recognize a specific adjustment for flotation costs in the determination of the investor-required ROE. (TR 3267–3269)

SFHHA witness Baudino also testified that an adjustment for flotation costs is inappropriate. (TR 2622) He stated that, since witness Avera failed to provide any specific information on flotation costs incurred by FPL, his recommended adjustment is not tied to any actual costs incurred by the Company either now or in the past. (TR 2630) Witness Baudino testified that flotation costs are already accounted for in the current stock prices and that adding an adjustment for flotation costs amounted to double recovery. (TR 2630–2631) For these reasons, he recommended the Commission reject witness Avera’s proposed flotation cost adjustment. (TR 2630)

Witness Baudino testified that, while the financial markets did undergo one of the most serious periods of volatility and uncertainty in history, economic conditions have begun to stabilize. (TR 2632) He stressed that even through the height of the financial crisis in 2008, FPL Group did not experience problems in accessing capital markets. (TR 2633) He believes FPL’s recommended ROE of 12.5 percent results in a burdensome cost of capital that is too expensive for customers to maintain. (TR 2634) Moreover, witness Baudino testified that the cost of equity

⁹⁸ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company, pp. 48.

should be based on the investor-required return. He concluded that it would be inappropriate to inflate the authorized return by an arbitrary adjustment for exemplary management. (TR 2675)

The intervenors also challenged the testimony of Company witnesses that FPL is more risky than TECO. (SFHHA BR 61–62; FRF BR 29) Because TECO is rated triple B by all three rating agencies and FPL is rated single A by the same agencies, SFHHA argued that “it is unreasonable and inconsistent with investor perceptions that a company with an “A” bond rating is more risky than a company with a “BBB” bond rating like TECO, and would therefore require a higher ROE.” (EXH 510; SFHHA BR 62) In addition, it was noted that TECO Energy’s stock price increased by 8 percent and trading volume more than doubled following the announcement of the staff recommended ROE of 10.75 percent for TECO. (TR 4712; EXH 498) FRF concluded that, because investors looked favorably on an ROE of 10.75 percent, this “lends additional support to basing the rates for FPL, which is stronger financially than Tampa Electric, on a substantially lower ROE than requested by FPL.” (FRF BR 29)

ANALYSIS

Based on a literal reading of the testimony in this proceeding, the record could support an authorized ROE within the range of 7.6 percent to 13.9 percent. (TR 3246, 4424) As noted earlier, the witnesses’ recommended returns suggest a range of 9.5 percent to 12.5 percent. (TR 3246, 5224–5225) Based on a review of the testimony as well as the additional evidence presented in this proceeding, staff believes the record more strongly supports an ROE for FPL in the range of 10.3 percent to 11.5 percent. (TR 2607, 3230; EXH 136)

Each of the witnesses recognized that the generally accepted models used for estimating ROE are based on a number of restrictive assumptions. (TR 2591, 3217, 4377–4378) Under normal economic circumstances, the relaxation of these assumptions for the practical application of the models is generally understood. And while the state of the economy has improved since the market disruption in the fall of 2008, the economic recovery is still somewhat tenuous. (TR 2579–2581, 3196–3198, 4672–4674, 5057, 5062, 5216) This realization does not mean the models no longer have value, rather, it is particularly important at this point in time to exercise informed judgment in the application of the models. (TR 3217, 4378, 4499)

OPC witness Woolridge and SFHHA witness Baudino both argued that FPL witness Avera made certain assumptions in the application of his DCF analysis that overstated the investor-required ROE for FPL. (TR 2621–2627, 3252–3262) In turn, witness Avera argued that witnesses Woolridge and Baudino made certain assumptions in the application of their respective DCF analyses that understated the investor-required ROE for FPL. (TR 4454–4464) As discussed earlier, all three witnesses used the same constant growth version of the DCF model. (TR 2591, 3221, 4413) And with the exception of witness Avera’s Non-Utility Proxy Group, all three witnesses used relatively similar estimates of dividend yields. The primary reason for the difference in the indicated DCF returns is attributed to differences in their respective estimates of the growth rate to include in the DCF model. (EXH 136; EXH 138; EXH 217; EXH 283)

OPC witness Woolridge used an average growth rate of 5.50 percent based on the average of growth forecasts for EPS, DPS, BVPS, and the internal growth rate. (TR 3225, 3229) The growth rates in SFHHA witness Baudino’s analysis ranged from 3.75 percent to 6.25 percent and averaged 5.53 percent. (TR 2599; EXH 283) These growth rates are based on growth

forecasts for EPS and DPS. (TR 2596) The average growth rates used in FPL witness Avera's DCF analysis ranged from 5.66 percent to 6.90 percent and averaged 6.32 percent. (EXH 136) These growth rates are primarily EPS growth rates but he also included an estimate of growth based on the earnings retention method. (TR 4417, 4420)

Because the estimated return produced by the DCF model used by the witnesses is determined by the sum of the growth rate and the dividend yield, the higher the growth rate the higher the indicated return, all else held constant. As a result, the decision regarding which DCF result is more indicative of the investor-required return for FPL comes down to which witness' estimate of growth is believed to be more appropriate. (TR 4504)

FPL witness Avera testified that neither OPC witness Woolridge or SFHHA witness Baudino demonstrated how the criterion of revenues from electric operations translated into differences in the investment risk perceived by investors. (EXH 363, BSP 1) However, a comparison of the inputs to the witnesses' respective DCF analyses provides some insight into this debate.

Both witnesses Woolridge and Baudino testified that nonregulated companies are subject to greater risk than regulated electric companies and therefore nonregulated companies will have different return requirements than regulated companies. (TR 2624, 3216) As noted above, while the average growth rates for the respective witnesses' utility proxy groups ranged from 5.50 percent to 6.32 percent, the average growth rate for witness Avera's Non-Utility Proxy Group was 10.1 percent. (EXH 138) While this differential in growth rates is partially offset by the relative difference in average dividend yields between the utility and non-utility proxy companies, it is clear investment analysts, and by extension investors, have a very different view of the projected earnings growth for regulated companies compared to nonregulated companies.

The existence of higher expected earnings growth for the unregulated operations versus the regulated operations of the companies included in utility proxy groups was also highlighted by the intervenor witnesses. (TR 3253-3254) The companies in witness Woolridge's proxy group rely on regulated electric revenues for approximately 85 percent of their revenues. (EXH 211) In contrast, the companies in witness Avera's proxy group rely on regulated electric revenues for approximately 62 percent of their revenues. (TR 3253) In addition, at least three of the companies in witness Avera's Utility Proxy Group rely on regulated electric revenues for less than 25 percent of their revenues. (TR 3253)

To illustrate the impact this distinction has on the DCF-indicated return, consider the three companies that operate vertically integrated investor owned utilities (IOUs) in Florida.⁹⁹ All three witnesses included FPL Group, the Southern Company, and Progress Energy in their respective utility proxy groups. (TR 2594; EXH 136; EXH 211) Both the Southern Company and Progress Energy have divested nearly all of their unregulated operations and rely on regulated operations for essentially all of their revenues. (EXH 211) In contrast, depending on

⁹⁹ Staff notes that, while Tampa Electric Company also operates in Florida, none of the three witnesses included TECO Energy in their utility proxy group. (TR 2658)

the source,¹⁰⁰ FPL Group relies on unregulated operations for 25 to 30 percent of its revenues. (TR 5089; EXH 211)

The difference in expected earnings growth between the three companies is telling. Progress Energy has expected earnings growth estimates ranging from 5.0 percent to 6.0 percent and the average of the expected earnings growth rates is 5.3 percent. (EXH 136) The Southern Company has expected earnings growth estimates ranging from 5.2 percent to 5.8 percent and the average of the expected earnings growth rates is 5.5 percent. (EXH 136) In contrast, FPL Group has expected earnings growth estimates ranging from 9.3 percent to 10.0 percent and the average of the expected earnings growth rates is 9.6 percent. (EXH 136) This difference between the expected earnings growth for “pure plays” such as Progress Energy and the Southern Company and more diversified companies such as FPL Group is an important consideration in the determination of the ROE for FPL because the ROE authorized in this proceeding should only reflect the investor-required return for the regulated operations of FPL and not the required return for FPL Group, the consolidated entity. (TR 4736, 5470–5471)

In defense of his reliance on a Non-Utility Proxy Group to estimate the investor-required return for FPL, witness Avera testified that the Bluefield decision did not restrict consideration of comparable risk just to other utilities. (TR 4462, 4466) He is correct. There is no expressed requirement in Bluefield that comparable companies be limited to utilities. However, as noted in the pertinent passage from the Bluefield decision that follows, the determination of a comparable company is not without limits:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties, *but it has no constitutional right to such profits as are realized or anticipated in highly profitable enterprises or speculative ventures.*¹⁰¹

(emphasis added)

Staff is not taking issue with the mix of companies any particular witness elected to include in their respective utility proxy group. The point of this discussion is to explain why the composition of a proxy group for purposes of estimating the ROE for a regulated utility is an important consideration.

Witness Baudino testified that the bulk of witness Avera’s results suggest a lower ROE, more in the range of 10.5 percent to 11.7 percent if the results of his Utility Proxy Group were used. (TR 2623, 4548–4549) Witness Baudino stated that only by considering the results of his Non-Utility Proxy Group can witness Avera support a return above 12.0 percent. (TR 2623,

¹⁰⁰ AUS reports that FPL Group derives 70 percent of its revenues from regulated electric operations. (EXH 211) S&P reports that FPL is responsible for 75 percent of FPL Group’s consolidated credit profile. (TR 5468) According to FPL Group’s 2008 Annual Report to Shareholders, FPL accounted for 76 percent of FPL Group’s consolidated revenues in 2007 and 71 percent of its consolidated revenues in 2008. (EXH 180, MFR Schedule F-1)

¹⁰¹ Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 692–693 (1923).

4513–4514) Witness Baudino testified that non-utility companies have higher overall risk structures, and thus higher required returns, than low-risk utilities like FPL. (TR 2624) Moreover, because FPL has one of the strongest bond ratings in the utility industry, he argued that FPL should have a lower required return than the average utility. (TR 2624)

Both witnesses Woolridge and Baudino presented testimony challenging the reasonableness of certain aspects of witness Avera's CAPM analysis. (TR 2628–2629, 3262–3266) In turn, witness Avera presented testimony challenging the reasonableness of certain aspects of their analyses. (TR 4454–4464) However, recognizing the impact the Federal Government's unprecedented intervention in the capital markets has had on the yields on long-term Treasury bonds, staff believes models that relate the investor-required return on equity to the yield on government securities, such as the CAPM approach, produce less reliable estimates of the ROE at this time. (TR 2581, 3196–3197, 4385–4386) In the end, it's a moot point. Witnesses Woolridge and Baudino assigned little to no weight to their CAPM results in determining their respective recommendations of the appropriate ROE for FPL and the results of witness Avera's CAPM analyses were outside (below the bottom) of his recommended range of investor-required returns for FPL. (TR 2577, 2608, 3218, 3246, 4427, 4724)

Both OPC witness Woolridge and SFHHA witness Baudino challenged the reasonableness of FPL witness Avera's Expected Earnings Approach for estimating the investor-required ROE for FPL. (TR 2629 – 2630, 3266–3267) Witness Woolridge testified that many of the companies in witness Avera's Utility Proxy Group have significant unregulated operations and therefore the results of this approach are unduly influenced by the profits associated with these unregulated operations. (TR 3266) Witness Baudino testified that forecasted returns on book equity may have nothing whatsoever to do with investors' required returns in the market place. (TR 2629) Witness Avera countered that the Expected Earnings Approach he used is consistent with both sound regulatory policy and the legal standards set forth in the Hope and Bluefield decisions. (EXH 363, BSP 53)

Witness Avera is correct that the Expected Earnings Approach is a generally recognized method for estimating ROE and is consistent with the "corresponding risk" standard of the Bluefield decision. (TR 4461) However, witness Avera acknowledged that the expected returns shown in his analysis were based on the results of both the regulated and unregulated operations of the companies in his Utility Proxy Group. (TR 4786) Staff believes that to the extent that the greater risk associated with unregulated operations exerted upward pressure on the expected returns for the consolidated companies, the indicated return from this approach may overstate the investor-required return for the regulated operations of FPL. (TR 2624, 4388) In addition, the same circularity argument raised for why the Commission should not consider returns authorized by other Commissions when setting the ROE for FPL also applies to the Expected Earnings Approach. (TR 4379)

Each of the witnesses made persuasive arguments for including and not including an allowance for the recovery of flotation costs in the determination of the ROE. While it has been the Commission's practice to recognize an adjustment for flotation costs in certain applications, the determination of an authorized ROE by a regulatory commission in an evidentiary proceeding very seldom involves the level of specificity that would permit the itemization of a specific allowance for flotation costs. In this context, the debate over whether to include or not include an allowance for flotation costs is similar to the debate over whether to use an annual or

quarterly DCF model, or a blended growth rate or an earnings-only growth rate in the DCF analysis. Staff's recommended ROE does not specifically recognize or exclude an allowance for flotation costs but rather represents a blend of the results of the witnesses' analyses.

Company witnesses testified that, due to risk factors unique to FPL, the Commission should set an ROE for FPL higher than the return recently authorized for TECO. (TR 4875) Staff believes the ROE set in this proceeding should be based on the record in this case. (TR 4658, 4728, 5509; FPL BR 15) While the record in the TECO case was developed over the period from August 2008 through January 2009 and a decision was rendered in March 2009, the record in FPL's case was developed over the period March 2009 through October 2009 with a decision expected in January 2010. Conditions change over time and an ROE that was reasonable for a particular company at a particular point in time may or may not be relevant to the investor-required return for a different company at a different point in time.

As for the argument that FPL is so uniquely riskier than other IOUs that it requires an ROE well above the average ROE authorized for other IOUs, staff believes the record in this case does not bear this out. Other than the Company's geographic location, it was demonstrated that the majority of the companies in witness Avera's Utility Proxy Group were also exposed to the same or similar risk factors related to significant capital expenditure programs, issues related to fuel mix, managing O&M expense, owning and/or proposing nuclear generation, dealing with weather related service interruptions, and the need for a regulatory environment supportive of credit quality. (TR 4752-4786, 5474-5482) Witness Avera testified that, to the extent that cost recovery clauses and other adjustment mechanisms are prevalent across the industry, the risk mitigation benefits of these mechanisms have already been reflected in the cost of equity estimates. (TR 4437-4438, 4760-4761) Similarly, since the risk factors suggested by the Company are systemic to the industry and are not unique to FPL, investors' expectations regarding these risk factors have also been captured in the results of the cost of equity models. (TR 4636, 4785-4786) Moreover, the rating agencies conduct quantitative and qualitative assessments of the Company's business and financial risk position. (TR 4745, 4785, 5325) FPL is one of the highest rated IOUs in the nation. (TR 5065, 5143) Just as staff has recommended the Commission resist certain proposed adjustments to the Company's capital structure that would exert downward pressure on the Company's financial position, staff believes it is equally important to resist efforts to overstate the Company's relative risk profile to justify a higher ROE. (TR 4738-4744)

In Issues 8-9 and 11-14, FPL has proposed making the Generation Base Rate Adjustment (GBRA) mechanism a permanent regulatory feature. (FPL BR 13; OPC BR 9) If approved as proposed by the Company, the GBRA mechanism will allow FPL to increase base rates by the annualized first year revenue requirement for qualifying plant additions when a plant goes into commercial service. Staff's recommendation regarding whether the GBRA mechanism should be approved is discussed in the aforementioned issues. However, unlike the situation addressed earlier when it was demonstrated that investors are aware of the risk mitigation benefits of typical recovery clauses and thus these expectations have been incorporated into the results of the cost of equity models, staff does not believe the GBRA mechanism falls into this category. While witness Avera stated he thought there might be adjustment mechanisms available in Virginia or California that would permit recovery of certain investments outside of a full rate case, he could not identify any IOU that had the ability to unilaterally increase base rates by the full annual revenue requirement for an entire power plant. (TR 4763-4765) He did not

make a determination if any of the companies in his Utility Proxy Group had a GBRA or similar mechanism in place. (TR 4765) He did not research any Commission orders or review statutes in other states to demonstrate that the GBRA mechanism was common to the industry. (TR 4765)

While the GBRA mechanism has been in place, FPL has availed itself to base rate increases associated with Turkey Point Unit 5 (TP5) and West County Unit 1 (WC1).¹⁰² (EXH 35, BSP 147, 287–292) The base rate increase associated with TP5 alone increased FPL's earned return on equity by approximately 76 basis points in 2007 and 95 basis points in 2008. (EXH 35, BSP 147) Witness Pimentel acknowledged that the GBRA mechanism supported FPL's strong financial position. (TR 5253) Witness Pimentel also admitted that if the GBRA mechanism is approved, rate cases would be less likely in the future. (TR 5252) OPC witness Brown testified that approval of the GBRA mechanism would transfer risk from FPL to its customers. (TR 2420) While disagreeing with the testimony of witness Brown, FPL witness Deason acknowledged that approval of the GBRA mechanism would minimize risk for both FPL and its customers. (TR 6698–6699) Because the GBRA mechanism would be unique to FPL and would reduce the uncertainty around its expected return through automatic base rate increases over time, staff recommends that these factors be considered by the Commission in setting FPL's authorized ROE for all purposes if the GBRA mechanism is approved.

Due to the reliance on the results of DCF and CAPM analyses applied to unregulated companies, staff believes the Company's requested ROE of 12.5 percent overstates the current investor-required ROE for FPL. (TR 2634, 3253) Conversely, recognizing that the marginal cost of long-term, single A-rated utility bonds is near 6.0 percent, staff believes returns in the single digits as recommended by the Intervenor may understate the investor-required ROE in the current market. (TR 4743)

Finally, Exhibit 462 reports the authorized ROEs set during 2009 for the electric utilities followed by Regulatory Research Associates (RRA). (EXH 462) The ROEs set during 2009 ranged from a low of 8.75 percent to a high of 11.5 percent and averaged 10.51 percent for the group. (EXH 462) While staff does not believe the authorized ROE for FPL should be based upon the average return set by Commissions during 2009, staff does not believe recommended returns significantly above or below this level are indicative of the investor-required return for FPL, either.

CONCLUSION

Staff recommends an authorized ROE of 10.75 percent with a range of plus or minus 100 basis points. In arriving at this return, staff has weighed the identified strengths and weaknesses associated with the respective witness' analyses. Staff has also taken into account FPL's proposed construction program and its need to access the capital markets under reasonable terms. In addition, staff considered the equity ratio recommended in Issue 71. Staff believes, at an equity ratio of approximately 59 percent on a Commission-adjusted basis and 56 percent on an S&P-adjusted basis, an authorized ROE of 10.75% is supported by competent, substantial evidence in the record and satisfies the standards set forth in the Hope and Bluefield decisions of

¹⁰² The GBRA base rate increase associated with West County Unit 2 occurred during 2009 but after the hearing in this proceeding was completed. (EXH 35, BSP 293)

the U.S. Supreme Court regarding a fair and reasonable return for the provision of regulated service.

Finally, staff's recommendation regarding whether to approve FPL's request to make the GBRA mechanism a permanent feature is discussed in Issues 8–9 and 11–14. For the reasons discussed above, if the Commission authorizes a GBRA mechanism staff recommends the Commission set an authorized ROE of 10.25 percent for FPL in recognition of the reduced risk going forward.

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?

Recommendation: The appropriate weighted average cost of capital for the projected 2010 test year is 7.00 percent. If applicable, the appropriate weighted average cost of capital for the 2011 subsequent projected test year is 7.18 percent. (Springer)

Position of the Parties

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.

OPC: The appropriate weighted average cost of capital for each respective test year is 6.14% for 2010. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate cost of capital should be 6.11%. The associated components, amounts and cost rates are reflected in Exhibit 248, Revised Exhibit SLC-26.

AFFIRM: No position.

AG: Adopt OPC's position

AIF: AIF supports FPL position that the average weighted cost of capital should be 8.00% for 2010 and 8.18% for 2011, subject to the adjustments presented in KO-16.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: Long-term debt should consist of 32.38% of FPL's capital structure at a cost of 5.55%, resulting in a weighted average cost of 1.80%. Customer deposits should consist of 3.62% of FPL's capital structure at a cost of 5.98%, resulting in a weighted average cost of 0.22%. Short-term debt should consist of 3.44% of FPL's capital structure at a cost of 0.60%, resulting in a weighted average cost of 0.02%. Deferred Income Taxes should consist of 19.13% of FPL's capital structure at a cost of 0%, resulting in a weighted average cost of 0%. Investment tax credits should consist of 0.36% of FPL's capital structure at a cost of 9.05%, resulting in a weighted average cost of 0.043%. Common Equity should consist of 41.07% of FPL's capital structure at a cost of 10.40%, resulting in a weighted average cost of 4.27%.

Staff Analysis:

PARTIES' ARGUMENTS

The parties have taken several positions in previous issues to form their position on this fallout issue. FPL originally proposed a weighted average cost of capital for 2010 and 2011 of 8.00 percent and 8.18 percent, respectively. (EXH 180, MFR Schedule D-1a) However, due to certain revisions, FPL proposed a weighted average cost of capital of 7.85 percent for 2010 and 8.06 percent for 2011. (FPL BR 54; TR 3624-3625)

OPC proposed a weighted average cost of capital of 6.14 percent for 2010 and 6.11 percent for 2011. (OPC BR 91) SFHHA proposed a weighted average cost of capital of 6.34 percent. (SFHHA BR 70)

AIF supported FPL's position on this issue. (AIF BR 32-33) AG, FIPUG, and FRF adopted OPC's position on this issue. (AG BR 13; FIPUG BR 37; FRF BR 94) Affirm, FEA, and South Daytona took no position on this issue.

ANALYSIS

As discussed in Issue 64, staff recommends the appropriate balances of accumulated deferred income taxes (ADITs) for projected test years 2010 and 2011 are \$2,885,287,055 and \$2,887,005,778, respectively. As discussed in Issue 66, staff recommends the appropriate amount and cost rate of unamortized investment tax credits (ITCs) are \$5,416,335 and 8.64 percent for 2010 and \$2,585,079 and 8.65 percent for 2011. As discussed in Issue 67, staff recommends cost rates for short-term debt of 2.11 percent for 2010 and 3.51 percent for 2011. As discussed in Issue 68, the appropriate weighted average cost of long-term debt is 5.49 percent for 2010 and 5.65 percent cost rate for 2011. As discussed in Issue 80, staff recommends 10.75 percent as the appropriate mid-point return on common equity for both 2010 and 2011.

Based upon the proper components, amounts, and cost rates associated with the capital structure for the test year ending December 31, 2010, staff recommends that the appropriate weighted average cost of capital for FPL for purposes of setting rates in this proceeding is 7.00 percent. Additionally, based upon the proper components, amounts, and cost rates associated with the capital structure for the subsequent test year ended December 31, 2011, staff recommends that the appropriate weighted average cost of capital for FPL purposes of setting rates in this proceeding is 7.18 percent.

CONCLUSION

Based upon the decisions in preceding issues and the proper components, amounts, and cost rates associated with the recommended capital structure, staff recommends a weighted average cost of capital of 7.00 percent for the projected 2010 test year. If applicable, staff recommends a weighted average cost of capital of 7.18 percent for 2011. These recommendations are detailed on Table 81-1 and Table 81-2 below.

Date: December 23, 2009

Table 81-1					
<u>Cost of Capital Per Staff</u>	<u>Staff Adjusted Capital Structure</u>	<u>Ratio</u>	<u>Cost Rate</u>	<u>Overall Rate of Return</u>	<u>Pre-tax Rate of Return</u>
2010					
Common Equity	\$7,870,980,440	47.00%	10.75%	5.05%	8.23%
Preferred Stock	-	-	0.00%	0.00%	0.00%
Long-term Debt	5,286,209,005	31.57%	5.49%	1.73%	1.73%
Short-term Debt	155,738,126	0.93%	2.11%	0.02%	0.02%
Customer Deposits	543,400,957	3.24%	5.98%	0.19%	0.19%
Investment Tax Credits	5,416,335	0.03%	8.64%	0.00%	0.00%
Deferred Income Taxes	2,885,287,055	17.23%	0.00%		
Total	\$16,747,031,918	100.00%		7.00%	10.18%

Table 81-2					
<u>Cost of Capital Per Staff</u>	<u>Staff Adjusted Capital Structure</u>	<u>Ratio</u>	<u>Cost Rate</u>	<u>Overall Rate of Return</u>	<u>Pre-tax Rate of Return</u>
2011					
Common Equity	\$8,644,287,231	47.42%	10.75%	5.10%	8.31%
Preferred Stock	-	-	0.00%	0.00%	0.00%
Long-term Debt	6,059,100,315	33.24%	5.65%	1.88%	1.88%
Short-term Debt	70,915,726	0.39%	3.51%	0.01%	0.01%
Customer Deposits	565,042,772	3.10%	5.98%	0.19%	0.19%
Investment Tax Credits	2,585,079	0.01%	8.65%	0.00%	0.00%
Deferred Income Taxes	2,887,005,778	15.84%	0.00%		
Total	\$18,228,936,900	100.00%		7.18%	10.39%

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?

Recommendation:

A. The inflation and customer growth factors for 2010 provided in MFR Schedule F-8 are appropriate. (Stallcup)

B. The inflation and customer growth factors for 2011 provided in MFR Schedule F-8 are too speculative to be used for rate setting purposes. However, should the Commission decide to implement the subsequent year rate increase in 2011, staff recommends that, of the options available in the record, FPL's inflation and customer growth factors be used. (Stallcup)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: AIF supports FPL position that the appropriate inflation and customer growth factors for 2010 and 2011 projected years were submitted by FPL in MFR F-8.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

The 2010 and 2011 inflation and customer growth rates were sponsored by FPL witness Morley and provided in MFR Schedule F-8. In her direct testimony, witness Morley testified that FPL incorporates several measures of inflation into its budgeting assumptions including the Consumer Price Index (CPI), the Producer Price Index (PPI), and the GDP Deflator. These budgeting assumptions are based upon input from Global Insight and other publically available sources. For 2009 and 2010, FPL projects inflation, as measured by the CPI, to increase at a two percent annual rate. (TR 988) For 2011, FPL forecasts an increase of 2.1 percent. (MFR F-8, p. 2 of 14)

FPL's customer growth rates for 2009, 2010, and 2011 are derived from FPL's customer model (see issues 3 and 7). Based on the output of this model, FPL projects the number of customers to increase by 0.2 percent in 2009, increase by 0.6 percent in 2010, and increase by 1.3 percent in 2011. (TR 971)

In its brief, FPL asserts that the inflation and customer growth factors were appropriately developed and represent reasonable expectations for 2010 and 2011. (FPL BR 101)

AIF agrees with FPL. OPC, AFFIRM, AG, South Daytona, FEA, FIPUG, FRF, and SFHHA took no position on this issue.

ANALYSIS

Staff reviewed the inflation and customer growth rate projections for 2010 contained in MFR Schedule F-8. Staff agrees with FPL that the inflation projections contained in MFR F-8 are consistent with the projections of independent sources such as Global Insight and other publicly available sources. Therefore, staff believes that the inflation assumptions contained in MFR F-8 are appropriate for the 2010 test year.

Staff also reviewed the forecast model and assumptions used to project customer growth rates through 2010 (see issue 3). Staff believes that these growth rates represent reasonable expectations of customer growth through 2010.

Staff also reviewed the inflation and customer growth rates for 2011. As discussed in issue 7, staff is reluctant to recommend that FPL's 2011 forecasts be used for rate setting purposes. This reluctance is based upon a concern that there is no empirical data (such as stabilizing customer growth rates) to suggest that the uncertainty associated with the current economic downturn is coming to an end. Staff is concerned that during the twelve months of 2010, additional economic volatility could cause the inflation and customer growth rates for 2011 to deviate significantly from FPL's projections. Therefore, staff does not believe that FPL's inflation and customer growth rates are appropriate for rate setting purposes.

However, in the event that the Commission decides to implement the subsequent year rate increase in 2011, staff would recommend that FPL's projections provided in MFR Schedule

F-8 be used. This recommendation is based upon staff's belief that FPL's projections for inflation and customer growth, however risky, are the best option, given the record evidence in this case.

CONCLUSION

A. The inflation and customer growth factors for 2010 provided in MFR Schedule F-8 are appropriate.

B. The inflation and customer growth factors for 2011 provided in MFR Schedule F-8 are too speculative to be used for rate setting purposes. However, should the Commission decide to implement the subsequent year rate increase in 2011, staff recommends that, of the options available in the record, FPL's inflation and customer growth factors be used

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?

Recommendation: Yes. 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 should be approved. (Prestwood)

A. Staff recommends no further adjustments related to this issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No. The net capacity charges should continue to be recovered in base rates and should not be moved to the CCRC.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl explained that the Company is requesting to transfer \$56.9 million associated with St. Johns River Power Park (SJRP) from base rates to the capacity clause. According to witness Ousdahl, the reason for this transfer is:

. . . 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 which stated in part "that capacity related purchased power costs not currently being recovered in any manner may be included in the capacity recovery factor. Those costs currently being recovered in base rates will remain in base rates until the utility's next general rate case. A net amount of \$56.9 million was included for recovery in 1988 base rates as explained in FPSC Order No. PSC-94-1092-FOF-EI, Docket No. 940001-EI.

(TR 3647)

OPC opposes the transfer of the SJRP costs from base rates to the capacity clause although no reason was given. (OPC BR 91)

No other party presented testimony on FPL's proposal to transfer revenue, expenses and investment associated with the SJRP from base rates to the capacity clause.

ANALYSIS

Capacity charges associated with SJRP should be treated consistently with other capacity arrangements and be included in the capacity clause. This is the first general rate case in which the opportunity to transfer these charges from base rates to the capacity clause could be addressed.

A. For the 2010 projected test year?

MFR Schedule B-2, for the projected 2010 test year, shows the adjustments made to Rate Base related to the transfer of costs associated with SJRP from base rates to the capacity clause. Rate Base was increased by \$54,511,000 for 2010 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2010 test year, shows the adjustments to Net Operating Income related to the transfer of cost associated with SJRP from base rates to the capacity clause. Net Operating Income was increased by \$34,979,000 for 2010 on a jurisdictional basis. (EXH 180)

B. For the 2011 subsequent projected test year?

MFR Schedule B-2, for the projected 2011 test year, shows the adjustments made to Rate Base related to the transfer of costs associated with SJRP from base rates to the capacity clause. Rate Base was increased by \$57,924,000 for 2011 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2011 test year, shows the adjustments to Net Operating Income related to the transfer of cost associated with SJRPP from base rates to the capacity clause. Net Operating Income was increased by \$34,979,000 for 2011 on a jurisdictional basis. (EXH 180)

CONCLUSION

Staff believes that the adjustments for the St. Johns River Power Park (SJRPP) from base rates to the capacity clause are in spirit with the Commission's Decisions in the Order Nos. 25773¹⁰³ and PSC-94-1092-FOF-EI¹⁰⁴ and should be approved.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

¹⁰³ See PAA Order 25773, Issued February 24, 1992, in Docket No. 910794-EQ, In Re: Generic investigation and determining proper recovery of purchased power capacity costs by investor-owned electric utilities.

¹⁰⁴ Order No. PSC-94-1092-FOF-EI, Issued on September 6, 1994, In Docket No. 940001-EI, In Re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor.

Date: December 23, 2009

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?

Recommendation: Yes. Staff recommends that FPL's proposal to transfer revenue, expenses and investment associated with the fuel clause from base rates to the Fuel Adjustment Clause, per past Commission practices, be approved. (Prestwood)

A. Staff recommends no further adjustments related to this issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL asserts that it made appropriate adjustments to the 2010 and 2011 test years to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause. FPL offered the testimony of witness Ousdahl, as well as MFRs and exhibits to support its position. FPL witness Ousdahl testified that "... Exhibit [119], KO-3 lists the MFRs that directly support the overall 2010 jurisdictional revenue requirement increase of \$1.044 billion requested by FPL.

Date: December 23, 2009

Those MFRs include schedules that support adjusted jurisdictional rate base of \$17.1 billion, adjusted jurisdictional net operating income of \$726 million . . ." (TR 3623)

Witness Ousdahl further testified that ". . . [p]age two of Exhibit [119], KO-3, lists the MFRs that directly support the overall 2011 jurisdictional revenue requirement increase of \$247.4 million requested by FPL. Those MFRs include schedules that support FPL's adjusted jurisdictional rate base of \$17.9 billion, adjusted jurisdictional net operating income of \$662.8 million . . ." (TR 3624)

No other party presented testimony in opposition to FPL's proposed adjustments to transfer revenue, expenses and investment associated with the fuel clause from base rates to the Fuel Adjustment Clause.

ANALYSIS

Exhibit 180 contains a complete set of FPL's Minimum Filing Requirements including those listed in Exhibit 119 mentioned in Witness Ousdahl's testimony above. Staff has reviewed the MFRs and discovery responses concerning these adjustments and believes they are correct.

A. For the 2010 projected test year?

MFR Schedule B-2, for the projected 2010 test year, shows the adjustments to Rate Base, that FPL made related to the transfer of cost associated with the fuel clause from base rates to the Fuel Adjustment Clause. Rate Base was decreased by \$102,000 for 2010 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2010 test year, shows the adjustments to Net Operating Income, that FPL made related to the transfer of cost associated with the fuel clause from base rates to the Fuel Adjustment Clause. Net Operating Income was decreased by \$1,262,000 for 2010 on a jurisdictional basis. (EXH 180)

B. For the 2011 subsequent projected test year?

MFR Schedule B-2, for the projected 2011 test year, shows the adjustments to Rate Base, hat FPL made related to the transfer of cost associated with the fuel clause from base rates to the Fuel Adjustment Clause. Rate Base was decreased by \$4,000 for 2011 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2011 test year, shows the adjustments to Net Operating Income, that FPL made related to the transfer of cost associated with the fuel clause from base rates to the Fuel Adjustment Clause. Net Operating Income was decreased by \$1,699,000 for 2011 on a jurisdictional basis. (EXH 180)

CONCLUSION

Staff recommends that FPL's proposal to transfer revenue, expenses and investment associated with the fuel clause from base rates to the Fuel Adjustment Clause, per past Commission practices, be approved.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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?

Recommendation: Yes. FPL's proposal to transfer revenue, expenses and investment associated with the conservation cost recovery from base rates to the Conservation Cost Recovery Clause, per past Commission practices, should be approved. (Prestwood)

A. Staff recommends no further adjustments related to this Issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL asserts that it made appropriate adjustments to the 2010 and 2011 test years to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause. FPL provided the testimony of witness Ousdahl, as well as MFRs and exhibits to support its position. FPL witness Ousdahl testified that "... Exhibit [119], KO-3 lists the MFRs that directly support the overall 2010 jurisdictional revenue requirement increase of \$1.044 billion requested by FPL. Those MFRs include schedules that support adjusted

jurisdictional rate base of \$17.1 billion, adjusted jurisdictional net operating income of \$726 million . . .” (TR 3623)

FPL witness Ousdahl further testified that “ . . . [p]age two of Exhibit [119], KO-3, lists the MFRs that directly support the overall 2011 jurisdictional revenue requirement increase of \$247.4 million requested by FPL. Those MFRs include schedules that support FPL's adjusted jurisdictional rate base of \$17.9 billion, adjusted jurisdictional net operating income of \$662.8 million . . .” (TR 3624)

No other party presented testimony in opposition to FPL's proposed adjustments to transfer revenue, and expenses associated with conservation revenues and expenses from base rates to the Conservation Cost Recovery Clause.

ANALYSIS

Exhibit 180 contains a complete set of FPL's Minimum Filing Requirements including those listed in Exhibit 119 mentioned in Witness Ousdahl's testimony above. Staff has reviewed the MFRs and discovery responses concerning these adjustments and believes they are correct.

A. For the 2010 projected test year?

MFR Schedule B-2, for the projected 2010 test year, shows the adjustments to Rate Base that FPL made to the transfer of cost associated with conservation cost recovery from base rates to the Conservation Cost Recovery Clause. Rate Base was decreased by \$23,759, for 2010 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2010 test year, shows the adjustments to Net Operating Income that FPL made related to the transfer of cost associated with conservation cost recovery from base rates to the Conservation Cost Recovery Clause. Net Operating Income was decreased by \$1,808,000 for 2010 on a jurisdictional basis. (EXH 180)

B. For the 2011 subsequent projected test year?

MFR Schedule B-2, for the projected 2011 test year, shows the adjustments to Plant in Service and Accumulated Depreciation that FPL made to Rate Base related to the transfer of cost associated with conservation cost recovery from base rates to the Conservation Cost Recovery Clause. Rate Base was decreased by \$25,908,000 for 2011 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2011 test year, shows the adjustments to Net Operating Income that FPL made related to the transfer of cost associated with conservation cost recovery from base rates to the Conservation Cost Recovery Clause. Net Operating Income was decreased by \$1,808,000 for 2011 on a jurisdictional basis. (EXH 180)

CONCLUSION

FPL's proposal to transfer revenue, expenses and investment associated with the conservation cost recovery from base rates to the Conservation Cost Recovery Clause, per past Commission practices, should be approved.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Date: December 23, 2009

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?

Recommendation: Yes. FPL's proposal to transfer revenue, expenses and investment associated with capacity cost recovery from base rates to the Capacity Cost Recovery Clause, per past Commission practices, should be approved. (Prestwood)

A. Staff recommends no further adjustments related to this Issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL asserts that it made appropriate adjustments to the 2010 and 2011 test years to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause. FPL provided the testimony of witness Ousdahl, as well as MFRs and exhibits to support its position. FPL witness Ousdahl testified that "... Exhibit [119], KO-3 lists the MFRs that directly support the overall 2010 jurisdictional revenue requirement increase of \$1.044 billion requested by FPL. Those MFRs include schedules that support adjusted

jurisdictional rate base of \$17.1 billion, adjusted jurisdictional net operating income of \$726 million . . ." (TR 3623)

FPL witness Ousdahl further testified that " . . . Page two of Exhibit [119], KO-3, lists the MFRs that directly support the overall 2011 jurisdictional revenue requirement increase of \$247.4 million requested by FPL. Those MFRs include schedules that support FPL's adjusted jurisdictional rate base of \$17.9 billion, adjusted jurisdictional net operating income of \$662.8 million . . ." (TR 3624)

No other party presented testimony in opposition to FPL's proposed adjustments to transfer revenue, expenses and investment associated with capacity cost recovery from base rates to the Capacity Cost Recovery Clause.

ANALYSIS

Exhibit 180 contains a complete set of FPL's Minimum Filing Requirements including those listed in Exhibit 119 mentioned in Witness Ousdahl's testimony above. Staff has reviewed the MFRs and discovery responses concerning these adjustments and believes they are correct.

A. For the 2010 projected test year?

MFR Schedule C-2, for the projected 2010 test year, shows the adjustments to Net Operating Income, that FPL made related to the transfer of cost associated with capacity cost recovery from base rates to the Capacity Cost Recovery Clause. Net Operating Income was decreased by \$32,323,000 for 2010 on a jurisdictional basis. (EXH 180)

B. For the 2011 subsequent projected test year?

MFR Schedule C-2, for the projected 2011 test year, shows the adjustments to Net Operating Income, that FPL made related to the transfer of cost associated with capacity cost recovery from base rates to the Capacity Cost Recovery Clause. Net Operating Income was decreased by \$23,928,000 for 2011 on a jurisdictional basis. (EXH 180)

CONCLUSION

FPL's proposal to transfer revenue, expenses and investment associated with capacity cost recovery from base rates to the Capacity Cost Recovery Clause, per past Commission practices, should be approved.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Date: December 23, 2009

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?

Recommendation: Yes. FPL's proposal to transfer revenue, expenses and investment associated with the environmental cost recovery from base rates to the Environmental Cost Recovery Clause, per past Commission practices, should be approved. (Prestwood)

A. Staff recommends no further adjustments related to this Issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL asserts that it made appropriate adjustments to the 2010 and 2011 test years to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause. FPL provided the testimony of witness Ousdahl, as well as MFRs and exhibits to support its position. FPL witness Ousdahl testified that "... Exhibit [119], KO-3 lists the MFRs that directly support the overall 2010 jurisdictional revenue

requirement increase of \$1.044 billion requested by FPL. Those MFRs include schedules that support adjusted jurisdictional rate base of \$17.1 billion, adjusted jurisdictional net operating income of \$726 million . . ." (TR 3623)

FPL witness Ousdahl further testified that " . . . Page two of Exhibit [119], KO-3, lists the MFRs that directly support the overall 2011 jurisdictional revenue requirement increase of \$247.4 million requested by FPL. Those MFRs include schedules that support FPL's adjusted jurisdictional rate base of \$17.9 billion, adjusted jurisdictional net operating income of \$662.8 million . . ." (TR 3624)

No other party presented testimony on FPL's proposal to transfer revenue, expenses and investment associated with the environmental cost from base rates to the Environmental Cost Recovery Clause.

ANALYSIS

Exhibit 180 contains a complete set of FPL's Minimum Filing Requirements including those listed in Exhibit 119 mentioned in Witness Ousdahl's testimony above. Staff has reviewed the MFRs and discovery responses concerning these adjustments and believes they are correct.

A. For the 2010 projected test year?

MFR Schedule B-2, for the projected 2010 test year, shows the adjustments to Rate Base that FPL made to the transfer of cost associated with environmental from base rates to the Environmental Cost Recovery Clause. Rate Base was decreased by \$593,376,000 for 2010 on a jurisdictional basis. (EXH 180)

MFR Schedule C-2, for the projected 2010 test year, shows the adjustments to Net Operating Income, that FPL made related to the transfer of cost associated with environmental from base rates to the Environmental Cost Recovery Clause. Net Operating Income was decreased by \$78,999,000 for 2010 on a jurisdictional basis. (EXH 180)

B. For the 2011 subsequent projected test year?

MFR Schedule B-2, for the projected 2011 test year, shows the adjustments to Plant in Service and Accumulated Depreciation, that FPL made to Rate Base related to the transfer of cost associated with environmental from base rates to the Environmental Cost Recovery Clause. Rate Base was decreased by \$1,087,726,000 for 2011 on a jurisdictional basis.

MFR Schedule C-2, for the projected 2011 test year, shows the adjustments to Net Operating Income, that FPL made related to the transfer of cost associated with environmental from base rates to the Environmental Cost Recovery Clause. Net Operating Income was decreased by \$94,574,000 for 2011 on a jurisdictional basis.

CONCLUSION

FPL's proposal to transfer revenue, expenses and investment associated with the environmental cost recovery from base rates to the Environmental Cost Recovery Clause, per past Commission practices, should be approved.

Date: December 23, 2009

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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?

Recommendation: Yes. FPL's adjustment to operating revenue to include the effects of the C/I Demand Reduction Rider Incentive Credits should be accepted. (Prestwood)

- A. Staff recommends no further adjustments related to this Issue for the 2010 test year.
- B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl proposed adjustments to the Company's forecasted revenues for the 2010 test year and the 2011 subsequent test year related to the Commercial/Industrial Demand Reduction (CDR). Witness Ousdahl explained that:

CDR is a voluntary energy management program that provides customers bill credits, while helping FPL efficiently manage the supply of electricity by

allowing the Company to unilaterally reduce power usage during peak demand periods, capacity shortages, or system emergencies. FPL records an offset to its base revenues for the benefits received by those customers who participate in the CDR program. FPL inadvertently excluded the debit to base revenues in its 2010 Test Year and 2011 Subsequent Year forecasts. Therefore, FPL has included a reduction in base revenues of \$10.3 million for the 2010 Test Year and \$10.6 million for the 2011 Subsequent Year.

(TR 3642)

No party presented testimony in opposition to FPL's proposed adjustments to operating revenue to adjust the incorrect forecasting of FPL's C/I Demand Reduction Rider Incentive Credits and Offsets

ANALYSIS

FPL inadvertently excluded the debit to base revenues in its 2010 Test Year and 2011 Subsequent Year forecasts.

A. For the 2010 projected test year?

MFR Schedule C-2, for the projected 2010 test year, shows the adjustments to Revenue and Net Operating Income, that FPL made related to the CDR. Revenue was reduced \$10,306,000 and Net Operating Income was decreased by \$6,330,000 for 2010 on a jurisdictional basis. (EXH 180)

B. For the 2011 subsequent projected test year?

MFR Schedule C-2, for the projected 2011 test year, shows the adjustments to Revenue and Net Operating Income, that FPL made related to the CDR. Revenue was reduced \$10,601,000 and Net Operating Income was decreased by \$6,512,000 for 2011 on a jurisdictional basis. (EXH 180)

CONCLUSION

A review of the Company's forecast reveals that the effects of the CDR were not originally included in the forecast by FPL witness Morley. The CDR were inadvertently excluded and staff believes the adjustments are appropriate and should be included.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this Issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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?

Recommendation: Yes. First, staff recommends that FPL's corrections to the forecast for Late Payment Revenues from Exhibit 358 be made. Second, staff recommends that OPC's adjustment to the forecast of Late Payment Revenues based on 2007 and 2008 actual experience be accepted. (Prestwood)

A. Staff recommends a net adjustment to increase Late Payment Revenues by \$18,390,146, for the 2010 test year.

B. If applicable, staff recommends a net adjustment to increase Late Payment Revenues by \$19,809,684, for the 2011 test year.

Position of the Parties

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.

OPC: Yes. Late payment revenue should be increased to eliminate FPL's 30% behavior adjustment and 2% write-off; to average 2007/2008 late payments on percentage to total bills for behavior modifications; and reduce revenues for customers not subject to the minimum fee to reflect lower anticipated revenues for 2010. Revenues should be increased \$25,024,251 for 2010. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$26,034,753.

AFFIRM: No position.

AG: Such charges should not be allowed, as discussed in the response to Issue 145; otherwise adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Forecast Updates:

FPL witness Ousdahl sponsored Exhibit 358 (KO-16) in her rebuttal testimony and explained that during the course of the proceeding, FPL identified appropriate adjustments to the Company's filing. Exhibit 358 (KO-16) summarizes the adjustments to Rate Base, Net Operating Income, and Capital Structure that FPL is proposing to its original filing. (TR 3708)

Item 6a of Exhibit 358 shows FPL's proposed adjustments due to an over-statement of Late Payment Revenue. According to FPL, Late Payment revenues were overstated because they were based on an older version of the revenue forecast than what was used to develop the final projections. Item 6a results in an adjustment to decrease late payment fee revenue by \$7,386,000 and \$7,001,000 for the 2010 test year and the 2011 subsequent test year, respectively. (EXH 358)

Item 10 of Exhibit 358 shows FPL's proposed adjustments due to an under-statement of Late Payment Revenue. According to FPL, Late Payment Revenues were inadvertently reduced by expected bad debts on the full amount of late payment revenues rather than on the incremental change in late payment revenues. Item 10 results in an adjustment to increase late payment fee revenue by \$751,895 and \$775,931 for the 2010 test year and the 2011 subsequent test year respectively. (EXH 358)

Behavior Change:

FPL witness Santos described the Company's proposed change to its charge for late payments as follows:

FPL currently charges 1.5% for late payments, but is proposing the greater of 1.5% or \$10. Driven largely by the deteriorating economy, FPL has seen a steady increase in the number of customers making late payments. The percent of customers with late payments has increased from 21% in 2006 to 24% in 2008. This is an increase of 150,000 customers on average per month.

(TR 1567-1568)

OPC witness Brown testifies that FPL had understated its projected revenue from late payment for both test years.

. . . in projecting the late payments fees for the test years, FPL has assumed that percentage of late paid accounts will remain at the same levels as the 2008 experience. In addition, the Company has offset the increased late payment fees by a 2% write-off rate and a 30% "behavior change" associated with accounts that would be subject to the minimum charge. These adjustments have resulted in an understatement of the late payment revenues under the revised structure.

(TR 2437)

According to witness Brown, FPL did not provide any justification for its assumption that the implementation of the \$10 minimum late fee would cause 30 percent of the affected customers to pay their bills on time which would reduce the percent of late paid bills to pre-2007 levels. (TR 2438)

OPC witness Brown recommended eliminating the two percent write-off adjustment, which should already be incorporated into the uncollectible accounts expense. She also recommended eliminating the 30 percent behavior modification adjustment and, instead, proposed using an average of the 2007 and 2008 late payments as a percentage of total bills. Under this approach, 20 percent of customer bills are assumed to be late which is less than the 22.3 percent level experienced in 2008. (TR 2439)

OPC witness Brown's recalculated late payment fees are \$25,024,251 and \$26,034,753 greater than FPL's estimates for 2010 and 2011, respectively. (TR 2439)

FPL witness Santos testified in her rebuttal that

The purpose of changing the late payment charge to have a minimum of \$10 is to change behavior and induce more timely payment. . . .By minimizing the behavior change assumption of 30%, Ms. Brown effectively diminishes the impact that the late payment charge is specifically designed to achieve. . . . FPL's use of an assumed behavior change of 30% is therefore quite conservative because it is less than half of the 65% change expected when applying the electricity demand elasticity.

(TR 6056-6057)

In rebuttal, witness Santos testified that if FPL's conservative 30 percent adjustment for behavioral change is not factored into LPC revenues, then FPL would withdraw its proposal to change the current LPC fee structure. (TR 6057)

ANALYSIS

Forecast Updates:

FPL's corrections to its original filing presented in Exhibit 358 were not challenged and appear to be reasonable. If the corrections are not accepted, FPL's case would be based upon erroneous data.

Behavior Change:

OPC witness Brown's recommendation to eliminate the two percent write-off adjustment and include the effects of uncollectibles in the uncollectible account is consistent with other revenue adjustments. Also Witness Brown's approach based on the average of 2007 and 2008, uses actual late payments and still recognizes a decrease in the number of customers paying late compared to 2008.

The Company's analysis of behavior change based on the electricity demand elasticity supports a behavior change of 65 percent. This extremely high percentage suggest that the

Date: December 23, 2009

analysis is somewhat suspect and is not really supportive of the Company's 30 percent behavior change. No analyses were presented for the 30 percent behavior change in FPL's original filing.

CONCLUSION

Staff recommends that FPL's adjustments to correct the original forecast for Late Payment Revenue proposed in Item 6a and Item 10 of Exhibit 358 be accepted. Staff also recommends that OPC's proposed adjustment to the forecast of Late Payment Revenues based on 2007 and 2008 actual experience be accepted.

A. For the 2010 projected test year?

Based on the corrections identified in Exhibit 358 and OPC's proposed adjustment, staff recommends a net adjustment to increase Late Payment Revenue for the 2010 test year by \$18,390,146.

B. For the 2011 subsequent projected test year?

Based on the corrections identified in Exhibit 358 and OPC's proposed adjustment, if applicable, staff recommends a net adjustment to increase Late Payment Revenue for the 2011 test year by \$19,809,684.

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?

Recommendation: Staff recommends no adjustment. (Prestwood)

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

FPL: The only adjustments necessary to FPL's revenue forecast are provided on Exhibit 358.

OPC: Yes. Revenues should be increased by \$46,500,182 in 2010 and \$40,351,388 in 2011. See Issues 3 and 7.

AFFIRM: No position.

AG: Yes. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: A. Yes. Agree with OPC that FPL's 2010 revenues should be increased by \$46,500,182.

B. Yes. Agree with OPC that FPL's 2011 revenues should be increased by \$40,351,388.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

No parties presented a separate position for this issue. The positions stated for the other parties are repeats of positions taken elsewhere.

Staff's analysis and recommendations for Issues 3, Issues 7, Issue 15, and Issue 89 are contained in the write-ups for those issues and will not be repeated here. The impacts of staff's recommendations for these Issues are accumulated in the fallout Issue 135 for Net operating Income.

ANALYSIS

It appears that no separate adjustments are necessary for this issue. Adjustments affecting the Company's 2010 test year and 2011 subsequent test year have been addressed under their appropriate adjustment numbers and are accumulated in Issue 135 for Net Operating Income.

CONCLUSION

Staff recommends no adjustment for this issue.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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?

Recommendation: No.

A. For the 2010 projected test year, the appropriate amount is \$4,099,478,146.

B. If applicable, the appropriate amount for the 2011 subsequent projected test year is \$4,160,175,684. (Prestwood)

Position of the Parties

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.

OPC: No. Revenues should be increased by \$46,500,182 in 2010. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate 2011 amount is \$40,351,388. See OPC's positions on Issue 3 and 7.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: A. No. Agree with OPC.

B. No. Agree with OPC.

SFHHA: No position.

Staff Analysis: This is a fallout issue. Based on staff's recommendations, the appropriate Total Operating Revenues are \$4,099,478,146 for the 2010 projected test year and, if applicable, \$4,160,175,684 for the 2011 subsequent projected test year. (See Schedules 3A and 3B)

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?

Recommendation: Staff believes, with the exception of the matters discussed in Issue 93, the Company has accounted for charitable contributions consistent with established Commission policy and recommends no adjustments to FPL's filing for this Issue. (Prestwood)

- A. Staff recommends no further adjustments related to this issue for the 2010 test year.
- B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl sponsored Exhibit 117, KO-1, which included MFR Schedule C-18 for the 2010 test year and the 2011 subsequent test year. These MFRs are also contained in Exhibit 180 (MFRs). (TR 3616) MFR Schedule C-18 requires the Company to "Provide a schedule, by organization, of any expenses for lobbying, civic, political and related activities or for civic charitable contributions included for recovery in cost of service for the test year and the most recent historical year." (EXH 180, MFR Schedule C-18) FPL's response to MFR Schedule C-18 for the 2010 test year states "Because of prior Commission decisions, the Company did not

include any expenses for lobbying, civic, political and related activities or for civic charitable contributions in determining Net Operating Income for 2010. All are accounted for "below the line." (EXH 180)

FPL's response to MFR, Schedule C-18 for the subsequent 2011 year has the identical response. (EXH 180)

No other party took a position on this Issue and no evidence was provided that contradicted the Company's statements in Exhibit 180.

ANALYSIS

Staff believes that FPL has followed the Commissions direction provided through past orders regarding the treatment of charitable contributions. The Commission has consistently held for many years now that such costs should be borne by stockholders of a company rather than by ratepayers, since the latter have no choice in the charity.¹⁰⁵

CONCLUSION

Staff believes, with the exception of the matters discussed in Issue 93, the Company has accounted for charitable contributions consistent with established Commission policy and that no adjustments are necessary.

A. Staff recommends no further adjustments related to this issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

¹⁰⁵ Order PSC-07-0671-PAA-GU, issued August 21, 2007, in Docket No. 070107-GU, In re: Investigation into 2005 earnings of the gas division of Florida Public Utilities Company.

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?

Recommendation: Yes. Staff recommends that OPC's proposed adjustment to treat the contributions to the historical museum as charitable contributions and remove them from revenue requirements be approved. (Prestwood)

- A. For the 2010 projected test year?

Staff recommends other expenses be reduced by \$45,470 for the 2010 test year.

- B. For the 2011 subsequent projected test year?

If applicable, staff recommends other expenses be reduced by \$46,764 for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: Yes. Test year expenses should be reduced by \$45,470 in 2010 and \$46,764 in 2011 for contributions FPL ;made to the Historical Museum consistent with Commission practice.

AFFIRM: No position.

AG: Yes. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: A. Yes. Agree with OPC.

B. Yes. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl testified that it was not appropriate to adjust the test year expenses to remove the 2010 and 2011 contributions made to the FPL Historical Museum by FPL. According to witness Ousdahl

The FPL Historical Museum is a subsidiary of FPL that is charged with maintaining records and artifacts associated with the Company's long history in the state of Florida. These activities are important to the preservation of the historically significant information about the Company and the industry from its beginning in the early 20th century until today. The FPL Historical Museum costs are incurred by FPL and recorded as legitimate FPL operating costs. Therefore, it is inappropriate to make an adjustment to move such costs below the line and treat them as charitable donations.

(TR 3703-3704)

OPC witness Dismukes recommended an adjustment for the costs recorded above the line for the FPL Historical Museum, Inc. She stated that

I am recommending that the Commission reduce test year expenses by \$45,470 in 2010 and \$46,764 in 2011 for the contributions made by FPL to the Historical Museum. (Response to OPC Interrogatory 69 and AG Interrogatory 27.) According to FPL, the museum maintains records and artifacts concerning the electric industry as well as FPL historical records. (Supplemental Response to OPC Interrogatory 27.) The museum is a not-for-profit affiliate. FPL pays the operating costs of the museum and records them to FERC Account 930. These costs are reflected on the financial statements of the museum as a contribution. (Second Supplemental Response to OPC Interrogatory 69.)

(TR 2119-2120)

Witness Dismukes went on to explain that the payments to the FPL Museum appear to be the same as charitable contributions and should be treated as such. (TR 2120)

ANALYSIS

FPL Historical Museum is a not-for-profit subsidiary of FPL. FPL pays the operating cost of the museum. However, the museum records these amounts as contributions. The true purpose of the Museum should dictate how its costs are recovered. According to FPL, the museum is responsible for "maintaining records and artifacts associated with the Company's long history" and "records and artifacts concerning the electric industry as well."

The minimum standards for the Preservation of Records of Public Utilities are described in great detail in the Code of Federal Regulations Part 125 (Code). The costs to maintain FPL's books and records, as described in the Uniform System of Accounts, are recorded as

Date: December 23, 2009

Administrative and General Expenses. The Code does not require that utilities maintain “records and artifacts concerning the electric industry.”

FPL did not explain exactly what records were being maintained by the FPL Museum. Also, FPL did not explain why the responsibility “for maintaining records and artifacts” was established as a separate not-for-profit entity and named the FPL Historical Museum. It would appear that the FPL Museum is designed more for the enhancement of FPL’s corporate image than mere records storage.

CONCLUSION

Staff agrees with OPC that the payments to FPL Museum appear to be charitable contributions. As more fully explained in Issue 92, the Commission has consistently held that such costs should be borne by stockholder of the company rather than by ratepayers since the latter have no choice in the charity.

A. For the 2010 projected test year?

Staff recommends other expenses be reduced by \$45,470 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends other expenses be reduced by \$46,764 for the 2011 subsequent projected test year.

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?

Recommendation: The Commission approved FPL's motion to withdraw all aviation costs included in the 2010 test year and the 2011 subsequent test year. Staff recommends that the adjustments below be made to the Company's original filing to accomplish the removal of the aviation costs from the appropriate cost categories. (Prestwood)

A. For the 2010 projected test year?

FPL's removal of aviation costs reduced Operating Expenses and Depreciation Expense by \$1,633,916 and \$2,092,009, respectively for the 2010 test year. It also reduced Plant in Service and Depreciation Reserve by \$53,268,205 and \$27,853,907, respectively for the 2010 test year.

B. For the 2011 subsequent projected test year?

FPL's removal of aviation costs reduced Operating Expenses and Depreciation Expense by \$1,763,686, and \$2,457,834, respectively for the 2011 subsequent test year. It also reduced Plant in Service and Depreciation Reserve by \$62,126,176 and \$28,809,341, respectively for the 2011 test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Evidence adduced at hearing demonstrates that FPL and its executives and affiliates have used corporate aircraft paid for by the ratepayers for purposes unrelated to

ratepayers' interests. Because FPL failed to carry its burden of proof on this issue, all corporate aircraft expense included in the test year should be disallowed.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

The Commission approved FPL's motion to withdraw all aviation costs included in the 2010 test year and the 2011 subsequent test year, on October 21, 2009. (TR 5453)

ANALYSIS

FPL removed the full amount of aviation costs for the 2010 test year and the subsequent test year 2011 from its rate increase request as a concession and to assist in the completion of the hearing. (TR 5431-5432, EXH 481, EXH 511, FPL BR 85) The Company's MFRs need to be adjusted to show the effect of removing the Company's aviation costs.

CONCLUSION

The removal of aviation costs has the effect of reducing FPL's originally requested Net Operating Income before taxes by \$3,725,925 and \$4,221,520 for the 2010 test year and for the 2011 subsequent test year, respectively. It also had the effect of reducing FPL's originally requested Rate Base by \$25,414,298 and \$33,316,834 for the 2010 test year and for the 2011 subsequent test year, respectively. (EXH 511, FPL BR 85-86)

A. For the 2010 projected test year?

FPL's removal of aviation costs reduced Operating Expenses and Depreciation Expense by \$1,633,916 and \$2,092,009, respectively, for the 2010 test year. It also reduced Plant in Service and Depreciation Reserve by \$53,268,205 and \$27,853,907, respectively, for the 2010 test year.

B. For the 2011 subsequent projected test year?

FPL's removal of aviation costs reduced Operating Expenses and Depreciation Expense by \$1,763,686, and \$2,457,834, respectively for the 2011 subsequent test year. It also reduced Plant in Service and Depreciation Reserve by \$62,126,176 and \$28,809,341, respectively for the 2011 test year.

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?

Recommendation: Yes. The cost savings associated with the AMI meters are appropriately included in net operating income for both test years. (Clemence)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: Support OPC's position

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC. Further, this project to replace all residential and small business meters is a project that can be pushed off into the future to lower revenue requirements.

FRF: Agree with OPC.

SFHHA: No, FPL has failed to include the pro rata amount of estimated savings from the installation of the AMI meters.

Staff Analysis:

PARTIES' ARGUMENTS

FPL argued that the cost savings are appropriately included in net operating income. (FPL BR 95) FPL states that the cost savings are only realized after the meters are deployed, and after all components and supporting processes are fully developed, tested, and implemented. (FPL BR 95) According to FPL, the claims made by SFHHA to prorate the savings as the meters are installed are unrealistic. (FPL BR 95)

FIPUG argued that an adjustment needs to be made and that it agrees with OPC. (FIPUG BR 40) FIPUG argues that the AMI project should be pushed off into the future to reduce the

revenue requirement. (FIPUG BR 40) FRF argued that an adjustment needs to be made and that they agree with OPC. (FRF BR 97) Staff notes that OPC did not take a position on the matter.

SFHHA argued that the savings should be proportional to the costs. (SFHHA BR 75-76) SFHHA argues that the mismatch between savings and costs deprives FPL's ratepayers of the full operational savings to which they are entitled. (SFHHA BR 75) SFHHA argues that net operating income should reflect 16.9 percent of the annualized O&M expense savings, or \$6.084 million. (SFHHA BR 76)

The other parties in the case did not take a position on this issue.

ANALYSIS

FPL Witness Santos testified that the savings from AMI will only happen after the completion of the entire AMI project. (TR 6048) AMI savings will not happen in ratio to the implementation of the meters. (TR 6049) Witness Santos testified that the savings will only occur after an integration of software, completion of new databases, implementation of cyber security, development of measures to maximize new functionality, and training on the new systems and processes is completed. (TR 6049) The witness testified that the project could be deferred, but FPL believes that the technology is ready, and that FPL wants to be able to help shape the market. (TR 1599, TR 1601) Below is a spreadsheet showing the capital expenditures and the associated savings from AMI implementation. (EXH 35 BSP 1712)

Deployment	2009	2010	2011	2012	2013	Total
Meters (Thousands)	170	1,128	1,099	1,076	873	4,346
Capital (Millions)	\$43.7	\$168.5	\$158.7	\$151.5	\$122.5	\$645
O&M (Thousands)	\$2,274	\$6,883	\$8,910	\$11,882	\$10,458	
Savings (Thousands)	(\$167)	(\$418)	(\$4,700)	(\$18,203)	(\$30,401)	
Net O&M (Thousands)	\$2,106	\$6,465	\$4,210	(\$6,321)	(\$19,943)	

SFHHA witness Kollen testified having 1.2 percent of the savings and 16.9 percent of the capital expenditure in a test year is unreasonable. (TR 3139) Witness Kollen testified that the meters when installed will realize immediate savings. (TR 3139) The witness testified that the savings should be matched to the capital expenditures. (TR 3139-3140)

Staff believes that the future savings from AMI should not be adjusted in the test year. While the savings do increase outside the test years, the Commission can call the Company in for an earnings review if the Company earns a return outside of its authorized return. The expenditure in AMI will lead to increased savings and should provide the customer with more information. The implementation of AMI will allow the Company to provide more service from a remote location. It is staff's opinion that the delay of the implementation of AMI is not in the best interests of the Company or the ratepayers. Future savings from AMI would reduce the impact of future costs incurred by FPL. For example, if the Commission rejects GBRA, savings from AMI can be used to offset investments in West County 3.

CONCLUSION

The savings from smart meters have been appropriately included in rate base. Staff believes that it is unrealistic to assume that the savings from AMI implementation will happen as soon as the meters are installed. Staff believes that the AMI project is prudent and should not be delayed. Staff recognizes that the project will have greater savings in the future, but does not believe an adjustment is warranted. Staff recommends that the Company bring a program to the Commission that will help customers take advantage of the potential energy savings from AMI.

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?

Recommendation: Staff recommends that FPL's corrections to increase the forecast for Bad Debt Expense from Exhibit 358 be approved. (Prestwood)

A. Staff recommends an increase in Bad Debt expense of \$3,805,000 for the 2010 test year.

B. If applicable, staff recommends an increase in Bad Debt expense of \$1,984,000 for the 2011 subsequent test year.

Position of the Parties

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.

OPC: 2010 Bad debt expense (BDE) is \$19,751,466. BDE is overstated by: FPL's bad debt regression analysis included higher revenue projections than load and revenue forecast; revenue collection/assistance enhanced without savings considered; reduced net write-offs by automatic bill payment impacts and avoided write-offs; and net write-off percentage should be applied to test year revenues using adjusted 12/1/2008 model. OPC strenuously opposes the subsequent 2011 test year. If 2011 test year is considered, BDE is \$15,565,771.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Forecast Updates:

FPL witness Ousdahl sponsored Exhibit 358 (KO-16) in her rebuttal testimony and explained that during the course of the proceeding, FPL identified appropriate adjustments to the Company's filing. Exhibit 358 (KO-16) summarizes the adjustments to Rate Base, Net Operating Income, and Capital Structure that FPL is proposing to its original filing. (TR 3708)

Item 6b of Exhibit 358 shows FPL's proposed adjustment due to an under-statement of Bad Debt. According to Exhibit 358, FPL's Bad Debt expense was understated because it was based on an older version of the revenue forecast and economic variables than what was used to develop the final projections. Item 6b results in an adjustment to increase Bad Debt expense by \$3,805,000 and \$1,984,000 for the 2010 test year and the 2011 subsequent test year, respectively. (EXH 358)

OPC witness brown testified that:

FPL used a regression analysis to forecast the uncollectible accounts expense using historical and projected data such as the real price of electricity, kWh sales, and unemployment. . . . the assumptions used in the regression model were apparently made prior to economic changes that were utilized by FPL in preparing other components of its filing. These assumptions would cause the overstatement of bad debt.

(TR 2430)

FPL witness Santos testified that:

Ms. Brown correctly points out that the level of kwh sales and real price of electricity used in the regression model to predict bad debt are higher than those used for other purposes in FPL's final projection for the Test Years. However, she incorrectly concludes that the bad debt calculation would have been reduced significantly if later, lower estimates of kwh sales and real price of electricity had been used. . . . For consistency in FPL's filing, it is necessary to use all variables-- kWh sales, real price, and the other economic variables-- from the same vintage. . . . FPL is reflecting this increase in bad debt expense as part of FPL witness Ousdahl's Exhibit KO-16, Identified Adjustments.

(TR 6051-6053)

Forecast Method:

FPL witness Santos explained that FPL uses regression analysis to forecast bad debt expense. According to witness Santos, projected bad debt expense is based on a model using historical and projected data such as the inflation adjusted price of electricity, KWH sales, and unemployment. She stated that:

Date: December 23, 2009

. . . we have found that there are two main drivers of a customer's ability to make payment, the dollar amount of the bill and the economic conditions currently impacting their ability to pay. These two variables are subject to changes overtime which may not be reflected in the historical write-off experience, especially during periods of economic instability.

(TR 1554-1555)

OPC Witness Brown testified that the 2010 and 2011 Test Year net write-offs should then be reduced by the impacts of additional automatic bill payments and the incremental avoided write-offs due to the Remote Connect Switch (RCS). (TR 2435)

FPL witness Santos explained that the regression model used to forecast bad debt expense includes growth in automatic bill payments over the last few years. As a result, the model already assumes a rate of growth for automatic bill payments in 2010 and 2011. (TR 6053)

FPL witness Santos further explained that the Remote Connect Switch (RCS) is a new technology, in the meters, that FPL is deploying as part of the AMI project. She noted that witness Brown's recommendation for a greater RCS write-off savings would require an earlier deployment of RCS than is planned. (TR 6053-6054)

ANALYSIS

Forecast Updates:

Staff believes that the updates recommended by OPC witness Brown have been incorporated in FPL's Exhibit 358. If the corrections are not accepted, FPL's case would be based upon erroneous data.

Forecast Method:

Staff believes that the recommendation by OPC concerning the automatic bill payments has been incorporated into the adjusted forecast by FPL. OPC's recommendation to recognize greater savings associated with the Remote Connect Switch (RCS) avoided write-off savings would require the Company to deploy the AMI project faster than planned.

CONCLUSION

Staff recommends that FPL's adjustments to correct the original forecast for Bad Debt Expense proposed in Item 6b of Exhibit 358 be accepted. Staff also recommends that OPC's proposed adjustment to reflect the impacts of additional automatic bill payments and the incremental avoided write-offs due to the Remote Connect Switch (RCS) be denied.

A. For the 2010 projected test year?

Staff recommends an increase in Bad Debt expense of \$3,805,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends an increase in Bad Debt expense of \$1,984,000 for the 2011 subsequent test year.

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?

Recommendation: No. Staff recommends that FPL's proposal to remove the portion of Bad Debt Expense associated with clause revenue and include them as recoverable expenses in the respective recovery clauses be denied. (Prestwood)

A. Staff recommends that FPL's proposed adjustment be denied and bad debt expense be increased by \$16,893,000 for the 2010 test year.

B. If applicable, staff recommends that FPL's proposed adjustment be denied and bad debt expense be increased by \$13,875,000 for the 2011 subsequent test year.

Position of the Parties

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.

OPC: No, bad debt expense should continue to be recovered through base rates. Based on the OPC amount of bad debt expense in Issue 96, the base rate recovery of bad debt expense should be increased by \$7,228,561 for 2010. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$5,688,649.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl explained that "the Company's 2010 and 2011 forecast includes an estimate of bad debt expense on its total revenues, including revenues generated from clauses, in accordance with current practice." However, the Company is proposing an adjustment to remove estimated bad debt expense related to clause revenues from base rates and include them with the recovery clauses. Witness Ousdahl stated "including the clause bad debt as a clause recoverable cost ensures that the estimate is consistent with and related to the clause revenues that are not collected." (TR 3646)

OPC witness Brown recommended that the uncollectible accounts expense remain in base rates for two reasons. First, FPL's proposed treatment creates an additional need for regulatory oversight and adjustments. Witness Brown testified that

In order to apply this process to the clauses, FPL would need to develop separate write-off rates and establish separate accrual provisions for each clause as the clause components of uncollectible accounts would vary by month and by customer. FPL has not proposed a process for recognizing the uncollectible accounts expenses through the various clauses. (TR 2435-2436, OPC BR 96)

Second, Witness Brown pointed out that the transfer of the uncollectible accounts expense to the clauses would increase the portion of FPL's revenue that is collected through clauses. She stated that "If 61% of the uncollectible accounts are simply passed through a clause, then FPL's incentive to continue its efforts to reduce uncollectible accounts is reduced." (TR 2436, OPC BR 96)

In rebuttal, Witness Ousdahl stated that FPL would not need to develop separate write-off rates because FPL would continue to calculate the uncollectible expense on a total company basis. FPL's position is the rate of bad debt exposure is no different for a dollar of fuel revenue than for a dollar of base revenue. She also noted that "There is no evidence that the change in recovery of bad debt expense would diminish FPL's attention to this important issue." (TR 3683, FPL BR 93)

ANALYSIS

Staff believes that OPC is correct in that FPL's proposed treatment would create an additional need for regulatory oversight and adjustments. The tracking of over and under recoveries for each clause is an example where over time, Bad Debt Expense could become out of sync with the base rate bad debt expense.

Staff believes that perhaps the strongest reason not to move a portion of Bad Debt from base rates to several different clauses is FPL's own position that the rate of bad debt exposure is no different for a dollar of fuel revenue than for a dollar of base revenue.

Staff believes that allocating a portion of bad debt to the clauses would create a disincentive to reduce bad debt and create the need for additional regulatory oversight. Staff believes the change is not supported.

Finally, staff takes note of the Commission's recent Order No. PSC-09-0411-FOF-GU¹⁰⁶, wherein the Commission denied the Peoples Gas' proposal to move a portion of Bad Debt expense from base rates to the Purchased Gas Adjustment Clause (PGA).

CONCLUSION

Staff believes that Bad Debt expense should remain in base rate and that no portion of it should be allocated to the recovery clauses.

A. Staff recommends that FPL's proposed adjustment be denied and bad debt expense be increased by \$16,893,000 for the 2010 test year.

B. If applicable, staff recommends that FPL's proposed adjustment be denied and bad debt expense be increased by \$13,875,000 for the 2011 subsequent test year.

¹⁰⁶Order No. PSC-09-0411-FOF-GU, issued June 9, 2009, in Docket 080318-GU, In re: Petition for rate increase by Peoples Gas DOCKET NO. OS031S-GU System, p. 29.

Issue 98: Should an adjustment be made to advertising expenses? (Category 2 Stipulation)

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

Approved Stipulation: No. An adjustment is not necessary as advertising expenses included in 2010 and 2011 are utility related and informational, educational or related to consumer safety.

Issue 99: Has FPL made the appropriate adjustments to remove lobbying expenses? (Category 2 Stipulation)

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

Approved Stipulation: FPL has reflected the amounts applicable to lobbying expenses below the line for the projected test year 2010 and for the subsequent test year 2011. Therefore, no adjustment to remove lobbying expenses from net operating income is required.

Date: December 23, 2009

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

Recommendation: Yes. Staff recommends that OPC's proposed adjustment to reduce the Company's projected payroll expenses be adopted. This adjustment is necessary to reflect the projected positions that will be unfilled for the 2010 test year and the 2011 subsequent test year. (Prestwood)

A. Staff recommends that FPL's proposed O&M expense be reduced by \$9,245,011, on a jurisdictional basis and Taxes other than Income Taxes be reduced by \$530,188 on a jurisdictional basis for the 2010 test year.

B. If applicable, staff recommends that FPL's proposed O&M expense be reduced by \$9,653,912, on a jurisdictional basis and Taxes other than Income Taxes be reduced by \$577,328 on a jurisdictional basis for the 2011 test year.

Position of the Parties

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.

OPC: Jurisdictional payroll expenses should be reduced by \$12.507 million in 2010 to recognize the historical average of unfilled positions. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate reduction for unfilled positions is \$13.068 million in 2011. Jurisdictional payroll expenses should be increased by \$3.262 million in 2010 and, if considered, \$3.414 million in 2011 to recognize additional overtime requirements as a result of the unfilled positions.

AFFIRM: No position.

AG: Support OPC's position.

AIF: AIF supports FPL's position that no payroll adjustments must be made to reflect the historical average level of unfilled positions and jurisdiction overtime.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Slattery testified that "The average number of employees forecasted for the 2010 test year is 11,111, consisting of 4,943 exempt (salaried) employees, 2,628 non-exempt (hourly) employees, and 3,540 union employees." (TR 5542, EXH 180, Schedule C-35) Witness Slattery also testified that "The average number of employees forecasted for the 2011 subsequent test year is 11,157, consisting of 5,009 exempt (salaried) employees, 2,565 non-exempt (hourly) employees, and 3,583 union employees." (TR 5543, EXH 180, Schedule C-35)

OPC witness Brown testified that FPL did not assume any unfilled positions in its projection of the 2010 test year and the 2011 subsequent test year. She stated that based on the Company's history, payroll expenses should be reduced to reflect unfilled positions. She went on to explain that "During the five years ending 2008, FPL's actual full-time equivalents ranged from a low of 1.71% below target in 2004 to a high of 2.48% below target in 2007, with an average of 2.08% below target over the 5-year period." (TR 2455-2456, OPC BR 97)

OPC witness Brown made changes to the actual unfilled historic data to eliminate discrepancies, and staffing changes that were disclosed in discovery. She then developed a factor that could be applied to the projected test years to produce a projected number of unfilled positions. She proposed an adjustment to reduce payroll and benefits based on a modified historical average of 1.59 percent. This percentage represents the difference between the budgeted numbers of employees compared to the expected number of actual of employees that will be in place during the test years. (TR 2455-2456)

Witness Brown proposed an offsetting adjustment to increase overtime for the Nuclear and Transmission Business Units due to the unfilled positions. This offset was calculated to recognize that these business units based their overtime projections, in part, on the full budgeted staff levels. (TR 2455-2456, OPC BR 97)

Exhibit 236 (SLB-14), page one, sponsored by Witness Brown, shows OPC's proposed adjustment to reduce payroll and associated benefits by the projected level of unfilled positions. The total jurisdictional adjustment to expenses is a \$12,507,000 decrease for the 2010 test year and a \$13,068,000 decrease for the subsequent 2011 test year. (TR 2457, EXH 236)

Exhibit 236 (SLB-14), page 2, sponsored by Witness Brown, shows OPC's proposed adjustment to increase overtime that offsets the adjustment for unfilled positions. Witness Brown testified that "[t]his offset to my adjustment was calculated to recognize that these business units based their overtime projections, in part, on budgeted staff levels. . . . FPL's other business units primarily used historical levels of overtime without adjustment for increased staffing levels." OPC's proposed adjustment for overtime increases jurisdictional expenses by \$3,261,989 for the 2010 test year and increases jurisdictional expenses by \$3,414,088 for the subsequent 2011 test year. (TR 2456-2457)

The net jurisdictional adjustment proposed for unfilled positions and offsetting overtime is a \$9,245,011 decrease in expenses for the 2010 test year and \$9,653,912 decrease in expenses for the subsequent 2011 test year. (TR 2457, EXH 236)

Included in the decrease of \$9,245,011, as proposed by OPC for the 2011 test year, is a decrease in payroll taxes of \$530,188. Included in the decrease of \$9,653,912, as proposed by OPC for the 2011 test year, is a decrease in payroll taxes of \$577,328 for the 2011 test year.

FPL witness Slattery disagreed with OPC witness Brown noting that her calculations fail to take into considerations several basic costs associated with less than ideal staffing into account. Witness Slattery noted that OPC witness Brown did not consider the following:

The bottom line is that FPL's business unit leaders have developed reliable methods to determine the work hours they need to continue reliable performance for customers, and no witness, including OPC witness Brown, has shown why those methods should be criticized or second-guessed. . . . Because of the inefficiencies I have previously discussed, the Company's historical experience is that vacancies have resulted in actual gross payroll (including overtime) exceeding the budget projections. (TR 5575, FPL BR 89)

ANALYSIS

FPL's position is that unfilled budgeted positions are a normal occurrence. It is clear from the record that FPL will not employ the number of positions that it has forecast for the 2010 test year or the 2011 subsequent test year. However, FPL contends that the cost associated with the unfilled positions will in fact be incurred in other forms such as overtime, contractors, outsourcing, etc.

OPC contends that the dollars associated with unfilled positions should be removed because they will not be incurred. The record indicates that historically, FPL has consistently run under the number of budgeted employees. Therefore, it stands to reason that FPL's historical level of overtime includes the time necessary to cover the work that would be performed by the unfilled positions. (TR 5573-5574, FPL BR 89)

According to OPC witness Brown's testimony, except for the departments she specifically adjusted, FPL used the historical levels of overtime to project the overtime for the 2010 test year and the 2011 subsequent test year. This results in the time to perform the work of the unfilled positions being counted twice. First, the forecasted overtime includes the time to perform work for unfilled positions based on historical averages. Second, the costs of the positions that will not be filled are included in the forecast. (TR 2456)

Staff believes that OPC's witness Brown effectively showed that FPL's method was flawed because it failed to accurately take into account unfilled positions and because by projecting overtime from historical data, FPL double counted its costs.

CONCLUSION

Staff recommends that OPC's proposed adjustment to reduce the Company's projected payroll expenses to reflect the projected positions that will be unfilled for the 2010 test year and the 2011 subsequent test year, should be adopted.

A. For the 2010 projected test year?

Staff recommends that FPL's proposed O&M expense be reduced by \$9,245,011, on a jurisdictional basis and Taxes other than Income Taxes be reduced by \$530,188 on a jurisdictional basis for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that FPL's proposed O&M expense be reduced by \$9,653,912, on a jurisdictional basis and Taxes other than Income Taxes be reduced by \$577,328 on a jurisdictional basis for the 2011 test year.

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

Recommendation: No. Staff does not believe that the record in this case supports an adjustment for productivity. (Prestwood)

A. Staff recommends no further adjustments related to this issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: AIF supports the position of FPL that it should not be required to reduce its expenses for productivity improvements given its lower historical rate of growth in payroll costs.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with SFHHA.

FRF: Agree with OPC.

SFHHA: Yes. The Commission should reduce FPL's O&M expense by at least \$36.519 million and the revenue requirement by \$36.641 million to properly account for productivity improvements. The recognition of productivity improvements will have the effect of reducing FPL's proposed payroll expense amount by \$30.917 million. As a result, there also will be reductions of \$1.995 million in the related payroll tax expense and \$3.607 million in the related fringe benefits expense.

Staff Analysis:

PARTIES' ARGUMENTS

SFHHA witness Kollen testified that "The Company reflected significant increases in payroll costs, including inflation and merit increases and staffing increases, but did not explicitly reflect an offset against these proposed expense increases for productivity improvements." SFHHA Witness Kollen went on to explain that the Company achieves productivity through capital investment in assets that reduce maintenance requirements and allow fewer employees to do more in less time, as well as, the adoption of best practices in managing processes. (TR 3127-3128, SFHHA BR 76-77)

SFHHA witness Kollen also analyzed quarterly data obtained from the U.S. Bureau of Labor Statistics which included the Nonfarm Business output per hour from 1982 through the first quarter of 2009. He calculated a percentage increase based on a 5 year simple average of 1.9 percent, an increase based on a 10 year simple average of 2.6 percent and the most recent annualized level in the first quarter 2009 of 1.9 percent. (TR 3129)

SFHHA witness Kollen recommended adjustments to reduce O&M expenses by \$36,519,000 and related fringe benefits by \$3,607,000, for a total reduction to expense of \$40,126,000 on a jurisdictional basis for the 2010 test year. He also recommended an adjustment to reduce payroll taxes by \$1,995,000 on a jurisdictional basis for the 2010 test year. Witness Kollen was opposed to the use of the 2011 subsequent test year and chose not to address it on an individual adjustment basis.

FPL witness Barrett stated,

A better measure of the Company's productivity is payroll dollars per customer rather than payroll per hour. The Company's goal is to serve customers reliably at a reasonable cost, not to achieve a particular payroll cost per hour. . . . 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 5917-5918)

ANALYSIS

Staff believes that productivity is an important metric that should be tracked by utilities as a significant guide as to whether the utility is performing as it should from year to year. However, productivity can be measured in many ways and must be fully understood before conclusions can be drawn concerning its applicability to any given situation.

In this case, staff agrees with FPL witness Barrett that a company's goal is to serve customers reliably at a reasonable cost. The Company has shown that its base pay per customer in 2010 and 2011 is lower than the average increase in that metric from 2006 to 2008.

While staff does not support a productivity adjustment based on the record in this case, it will continue to review productivity in the future. Also, because the record does not support a

productivity adjustment, the staff has taken no position as to the appropriateness of the actual level of wages and salaries in any given year.

CONCLUSION

Staff does not recommend an adjustment for productivity as recommended by SFHHA.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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

Recommendation: Yes. Staff recommends that the Commission find that the Company has met its burden of proof with respect to the number of additional employees. (Prestwood)

A. Staff recommends no further adjustments related to this issue for the 2010 test year.

B. If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: Yes. AIF supports FPL's position that its requested headcount and payroll expense levels are necessary to provide the reliable and safe service that its customers require.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: No. The company has already increased its nuclear staffing levels in recent years to address attrition and retirements. Since, September, 2008 FPL has actually been reducing its nuclear production staffing. The Commission should reduce FPL's nuclear production O&M expense by \$21.852 million to eliminate FPL's request for increased staffing.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Stall testified that:

It can take as long as eight to nine years to develop an operator candidate into an SRO [Senior Reactor Operator]. In general, the cost to FPL of training,

examination development, and licensing of a single candidate who starts without a license to obtain an SRO license is approximately \$160,000, not including payroll and benefits of each candidate, or the fees charged by the NRC for its review of the examination materials and oversight of the training and examination process. Additionally, FPL has been required to increase licensed operator class size (and hire additional training instructors to support such classes) to ensure adequate staffing in light of the competitive environment for nuclear professionals.

(TR 820)

SFHHA witness Kollen stated that the Company proposes an increase in nuclear staffing of 270 employees due primarily to employee attrition and training requirements. He said the Company cited this as one reason for the proposed \$37.298 million in excess over the benchmark level proposed for nuclear production on MFR Schedule C-41. (TR 3131)

SFHHA witness Kollen also noted that in response to discovery, the single largest reason for exceeding the benchmark identified by the Company was an increase in payroll costs to reflect a significant increase in staffing levels. The Company quantified the payroll expense effect of adding these employees at \$18.5 million for the test year compared to 2008. Witness Kollen explained that the Company cites its apprenticeship program and operations training as the primary reasons for the proposed increases in staffing levels in the test year compared to year end 2008. (TR 3131-3133; SFHHA BR 78)

According to SFHHA witness Kollen, the Company has been systematically reducing nuclear staffing since September 2008. Witness Kollen stated that “. . . the Company’s nuclear staffing peaked in September 2008 and has been steadily declining each month since then.” In addition, SFHHA witness Kollen stated that the Company’s proposed increase in staffing levels is inconsistent with the significant capital investments the Company has made to improve the performance at its nuclear facilities that should reduce staffing. (TR 3133-3134; SFHHA BR 78-79)

SFHHA witness Kollen recommended “. . . that the Commission reduce the Company’s nuclear production O&M expense by \$21.852 million to eliminate the Company’s request for increased staffing . . .” This amount consists of an \$18.5 million reduction in O&M expense, a \$1.194 million reduction in payroll taxes, and a \$2.158 million reduction in employee fringe benefits. (TR 3135; SFHHA BR 81)

FPL witness Stall testified in rebuttal that the 270 head count increase referred to by witness Kollen includes 129 positions supporting non-O&M activities such as uprate, capacity clause, and affiliate support. . . . The O&M costs forecasted in the 2010 test year do not include costs associated with these non-base O&M positions.” (TR 2904)

FPL witness Stall went on to explain that “due to the specialized nature of requirements for nuclear experience, it is imperative that an experienced nuclear operator train its employees.” In addition to the 8-9 years to develop a senior reactor operator, witness Stall added that other positions can take 1-3 years to train. He pointed out that in such a lengthy program, there is a

fair amount of attrition along the way. "Incremental staffing is needed to assure that we have sufficient experienced nuclear operations personnel." (TR 2904-2905)

FPL witness Stall testified that "[c]laims that FPL is reducing nuclear staffing are not correct. FPL is hiring today to fill critical positions to ensure the safe and reliable operation of our nuclear plants." (TR 2909)

FPL witness Stall explained that "the long-term capital investments provide improvements in long-term plant reliability and do not offset the need for plant staff." He stated that these investments do result in fuel savings and many of the capital investments were in response to the Nuclear Regulatory Commission (NRC) requirements.

ANALYSIS

SFHHA witness Kollen's recommendation to eliminate nuclear staffing cost was based on 270 full time positions. Staff believes witness Kollen failed to recognize that 129 of these positions have no effect on FPL's 2010 test year expense, because the 129 position were supporting non-O&M activities such as uprate, capacity clause, and affiliate support.

Staff believes the Company presented persuasive testimony that it is in an active hiring mode for its nuclear business unit and that positions are indeed needed. Staff is of the opinion that the Company has made it clear that there is a national shortage of qualified nuclear power plant staff, that there is a long training period to qualify new staff, and that changes to NRC requirements have resulted in an increase in the number of staff required to run and maintain a nuclear power plant.

CONCLUSION

Staff believes that the Company has met its burden with respect to the number of additional employees required for the 2010 test year. SFHHA was the only party to differ with the Company on this issue in its post hearing brief. SFHHA opposed the Company's proposed subsequent 2011 test year rate increase and did not provide individual adjustment numbers related to it.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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?

Recommendation: Yes. Staff recommends the following adjustments: (Prestwood)

- A. For the 2010 projected test year?

Staff recommends O&M expenses 1) be reduced by \$757,282 for executive raises, 2) be reduced by \$12,226,189 for executive incentive compensation payout ratios, 3) be reduced by \$15,282,736 for 50 percent of the remaining executive incentive compensation, 4) be reduced by \$2,122,947 for non-executive incentive compensation payout ratios, and 5) be reduced by \$3,538,246 for the 2010 test year. The total recommended reduction is \$33,927,400 for the 2010 test year.

- B. For the 2011 subsequent projected test year?

If applicable, staff recommends O&M expenses 1) be reduced by \$2,044,622 for executive raises, 2) be reduced by \$13,066,628 for executive incentive compensation payout ratios, 3) be reduced by \$16,333,285 for 50 percent of the remaining executive incentive compensation, 4) be reduced by \$2,489,989 for non-executive incentive compensation payout ratios, and 5) be reduced by \$4,149,982 for the 2010 test year. The total recommended reduction is \$38,084,506 for the 2011 test year.

Position of the Parties

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.

OPC: Jurisdictional executive salaries should be decreased by \$27.509 million in 2010 to remove half of executive compensation, which benefits shareholders, and the portion of executive salaries which exceeds target compensation levels. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate reduction is \$29.4 million in 2011.

Jurisdictional non-executive salaries should be decreased by \$5.661 million in 2010 to remove half of non-executive compensation, which benefits shareholders, and the portion of non-executive salaries which exceeds target compensation levels. OPC strenuously opposes the

subsequent 2011 test year. If the 2011 test year is considered, the appropriate reduction is \$6.64 million in 2011.

AFFIRM: No position.

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

AIF: No. AIF supports the levels of salaries and benefits presented by the company, subject to all stipulations and adjustments made during the rate proceedings.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: Yes. The Commission should reflect a productivity adjustment and eliminate the company's proposed increase in nuclear staffing levels.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Slattery stated that the Company's projected compensation and benefits cost are appropriate and reasonable. Witness Slattery testified that:

The reasonableness of the cost is clearly evident when the growth in the cost is compared to inflation indices, such as CPI and Worldatwork. The result shows that FPL's actual costs are in line with CPI inflation, and lower than the projected values customers would have experienced if cost grew in line with the wage based inflation index published by Worldatwork. The comparison of FPL's compensation cost to those of other utilities provides another useful measure of reasonableness, and, as demonstrated in my direct testimony (Exhibit [107] KS-4), total compensation is lower than most comparable utilities on a per employee, per operating revenue, and per customer basis. Finally, the reasonableness of FPL's benefits programs is demonstrated through the use of an analytical survey that benchmarks the plans to those of peers, and the relative value of the Company's benefits plans is consistently below average when compared to its peers in the utility industry.

(TR 5571)

During the hearings, the Company made a concession to its original filing consisting of two adjustments related to executive compensation. One adjustment lowers O&M expenses by reducing incentive compensation for executives by 50 percent for the 2010 and 2011 test years. The other adjustment eliminates the executive raises for the 2010 and 2011 test years. The term

Date: December 23, 2009

executive(s) as defined by FPL for use in this rate case refers to 42 employees that are officers of FPL, FPL Group, or one of its affiliates. (TR 5529-5531; TR 5609-5614; TR 5624-5625)

The Company submitted Exhibit 514 that shows the amounts for executive raises and incentive compensation separately for each of the test years. The effect on jurisdictional O&M expenses, due to the elimination of the executive raises, is a reduction of \$757,282 for the 2010 test year and a reduction of \$2,044,622 for the subsequent 2011 test year. The effect on jurisdictional O&M expenses, due to the 50 percent reduction in the incentive compensation for executives, is a reduction of \$16,457,087 for the 2010 test year and a reduction of \$17,279,190 for the subsequent 2011 test year. (TR 5609-5614; OPC BR 101)

During the hearings, FPL witness Slattery agreed that a portion of executive compensation is allocated to capital projects. Therefore, there is a relatively small error in the Company's calculation because a portion of the reduction in executive compensation should have been allocated to capital. If the Company had allocated a portion of the executive compensation reduction to capital, the reduction in O&M expenses and revenue requirements, shown on Exhibit 514, would have been slightly lower. Witness Slattery pointed out that only a very small portion of executive compensation would be capitalized and the Company did not offer to lower the expense reduction associated with executive compensation it presented in Exhibit 514. (TR 5622-5624; FPL BR 88; OPC BR 101)

OPC witness Brown stated that executive incentive compensation should be funded by those that benefit from the attainment of the goals which the incentive is designed to achieve. "Therefore, shareholders should bear a portion of the executive incentive compensation." OPC witness Brown recommended that "the Commission limit the executive annual incentive plan payments and long-term incentive stock awards to 50% of the projected costs remaining after the adjustment for the payout ratio." According to OPC witness Brown, this would fairly allocate the costs between ratepayers and shareholders. (TR 2461-2462; TR 2468)

OPC witness Brown explained that FPL had used a projected payout level of 1.4 times the target level for executives and 1.3 times the target level for non-executives. She stated:

I am first recommending that the Commission reduce the levels of the executive Annual Incentive Compensation and Long-Term Incentive Pay to reflect a target payout ratio of one (1) times the target compensation. This is a reasonable assumption to make for a future test year, particularly a year in which the Company has represented that its return on equity will drop to 4.67% without the requested rate increase. I am then recommending that the Commission limit the executive Annual Incentive Plan payments and Long-Term Incentive stock awards to 50% of the projected costs remaining after the adjustment for the payout ratio. This adjustment fairly allocates costs between ratepayers and shareholders based on the performance criteria that FPL has historically applied.

(TR 2468)

Exhibit 242 (SLB-20) shows the reductions in incentive compensation to executives proposed by OPC witness Brown. The proposed adjustment to reduce the payout ratios for

executive incentive compensation to 1.0 results in a reduction in jurisdictional O&M expenses for of \$12,226,189 and \$13,066,628 for the 2010 test year and for the subsequent 2011 test year, respectively. The proposed reduction to limit the incentive remaining, after the adjustment for the payout ratio to 50 percent, results in a reduction in jurisdictional O&M expenses of \$15,282,736 and \$16,333,285 for the 2010 test year and for the subsequent 2011 test year, respectively. The combined adjustments result in a reduction in jurisdictional O&M expenses of \$27,508,925 and \$29,399,912 for the 2010 test year and for the subsequent 2011 test year, respectively. (Exhibit 242 (SLB-20))

OPC witness Brown recommended similar adjustments for FPL's non-executive incentive compensation. She stated,

For all the reasons stated in the previous section of my testimony on executive incentive compensation, the stock-based compensation for non-executives should be adjusted in the same manner. The payout ratio used for the non-executives was 1.3 times the target compensation; therefore, the adjustments would be as shown in Exhibit [243]-(SLB-21).

(TR 2469)

The proposed reduction to lower the payout ratio from 1.3 times the target to an amount equal to the target is a reduction in jurisdictional O&M expenses of \$2,122,947 for the 2010 test year and a reduction of \$2,489,989 for the subsequent 2011 test year. The proposed reduction to limit the incentive remaining, after the adjustment for the payout ratio, to 50 percent is a reduction in jurisdictional O&M expenses of \$3,538,246 for the 2010 test year and a reduction of \$4,149,982 for the subsequent 2011 test year. The total decrease in jurisdictional O&M expenses due to the non-executive incentive compensation reductions is \$5,661,193 for the 2010 test year and \$6,639,971 for the subsequent 2011 test year. (TR 2469; EXH 243; OPC BR 101)

FPL witness Slattery explained the Company's internal mechanism used to measure performance in her rebuttal of OPC witness Brown,

The performance factor is a percentage determined through assessment of whether the Company and business unit operational performance metrics have been achieved, exceeded or missed . . . Based on the Company's historic performance and corresponding aggregate payout levels, FPL sets budgets and accrues awards based on an assumed performance of 30% to 40% above the baseline.

(TR 5585-5586)

FPL witness Slattery agreed during the hearings that the Company's concession to reduce O&M expenses associated with executive raises and executive incentive compensation awards, shown on Exhibit 514, did not include OPC witness Brown's proposal to reduce the payout of executive incentive awards. FPL witness Slattery also agreed that the Company's concession did not include OPC witness Brown's proposal to reduce the payout out of non-executive incentive awards. (TR 5621; OPC BR 101)

ANALYSIS

FPL made concessions to eliminate executive pay raises and to reduce incentive compensation for executives by 50 percent for 2010 and 2011, as shown on Exhibit 514. These concessions were made during the hearings but the Company's original MFRs must be adjusted to reflect these concessions.

OPC witness Brown proposed an adjustment to reduce the payout ratio of the incentive awards for executives in addition to the 50 percent reduction in incentive compensation conceded by FPL. OPC witness Brown proposed an adjustment to lower the payout ratio from 1.4 times the target level to 1.0 times the target level.

Staff agrees with OPC that the payout ratio for the incentive awards should be reduced to the target level and not set at 1.4 times the target. If the Company is consistently achieving 30 to 40 percent above the baseline year after year, then the incentive payments have essentially become base salary.

In OPC witness Brown's calculations of the proposed reduction to executive incentive compensation, she first reduced the payout ratio from 1.4 to 1.0 times the target and then applied the 50 percent reduction to the remaining balance of incentive compensation for executives. Witness Brown's calculations include the effect of FPL's concessions to reduce incentive compensation for executives by 50 percent, therefore, only OPC witness Brown's amounts should be used to avoid double counting the impact.

Staff believes the non-executive incentive awards should be reduced to the target level and not set at 1.3 times the target for the same reasons that the executive awards should be reduced.

CONCLUSION

Staff recommends that the Commission 1) adjust O&M expense to reflect FPL's concession to eliminate the executive raises, 2) accept OPC's adjustment to reduce the payout ratio for executive incentive compensation from 1.4 times the target level to 1.0 times the target level, 3) accept OPC's proposed reduction to limit the executive incentive remaining, after the adjustment for the payout ratio, to 50 percent, 4) accept OPC's adjustment to reduce the payout ratio for non-executive incentive compensation from 1.3 times the target level to 1.0 times the target level, and 5) accept OPC's proposed reduction to limit the non-executive incentive remaining, after the adjustment for the payout ratio, to 50 percent.

A. For the 2010 projected test year?

Staff recommends O&M expenses 1) be reduced by \$757,282 for executive raises, 2) be reduced by \$12,226,189 for executive incentive compensation payout ratios, 3) be reduced by \$15,282,736 for 50 percent of the remaining executive incentive compensation, 4) be reduced by \$2,122,947 for non-executive incentive compensation payout ratios, and 5) be reduced by \$3,538,246 for the 2010 test year. The total recommended reduction is \$33,927,400 for the 2010 test year.

Date: December 23, 2009

B. For the 2011 subsequent projected test year?

If applicable, staff recommends O&M expenses 1) be reduced by \$2,044,622 for executive raises, 2) be reduced by \$13,066,628 for executive incentive compensation payout ratios, 3) be reduced by \$16,333,285 for 50 percent of the remaining executive incentive compensation, 4) be reduced by \$2,489,989 for non-executive incentive compensation payout ratios, and 5) be reduced by \$4,149,982 for the 2010 test year. The total recommended reduction is \$38,084,506 for the 2011 test year.

Issue 104: Should an adjustment be made to FPL's level of executive compensation?

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

Ruling: Subsumed in Issue 103.

Issue 105: Should an adjustment be made to FPL's level of non-executive compensation?

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

Ruling: Subsumed in Issue 103.

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?

Recommendation: Staff recommends no adjustment. (Prestwood)

- A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

- B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No. AIF supports the FPL position that all pension amounts presented to the Commission are actuarially sound and should not be adjusted.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis

PARTIES' ARGUMENTS

No parties presented a separate position for this issue.

Date: December 23, 2009

Staff's analysis and review of the MFRs, discovery responses, testimony and cross examination did not demonstrate the need for an adjustment to the Company's expenses for this issue.

ANALYSIS

No party proposed an adjustment for this issue and it appears that no separate adjustment is necessary.

CONCLUSION

Staff recommends no adjustment for this issue.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Date: December 23, 2009

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?

Recommendation: No. Staff recommends no adjustment for FPL's receipt of an environmental insurance refund in 2008. (Prestwood)

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

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

AFFIRM: No position.

AG: Yes. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: A. Yes. Agree with OPC.

B. Yes. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl testified concerning OPC's proposed five year amortization for the environmental insurance refund from AEGIS. She stated,

The original policy was purchased in a non-base rate setting year (1998). The purchase was not included in FPL's Environmental Cost Recovery Clause (ECRC). Thus, purchase of the policy has never had any direct impact on rates customers pay. Transactions such as this that result in increases or decreases in period operating expenses outside of a test year are reflected in surveillance reporting, and may result in a higher or lower return than authorized. . . . Commission practice generally limits deferral and recovery to gains and losses. Gains and losses are not period costs, but instead represent benefit or detriment outside of the operation of the business. . . . 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.

(TR 3662-3663)

OPC witness Brown testified concerning the environmental insurance refund by AEGIS stating that FPL's rates have included the costs for property insurance and, as such, any refunds should be provided to ratepayers. She went on to say that,

If the associated cost of insurance has been included in the Environmental Cost Recovery Clause, I am recommending that the full amount be passed through to ratepayers immediately. In the alternative, assuming that the associated cost of insurance has been recovered through base rates, I am recommending that the Commission require amortization of this refund over a 5-year period beginning in 2010.

(TR 2472-2473; OPC BR 102)

The adjustment proposed by OPC witness Brown, based on the five year amortization of the insurance refund, is a decrease in jurisdictional O&M expense of \$8,685,682 for the 2010 test and a decrease in jurisdictional O&M expense of \$8,685,656 in the 2011 subsequent test year. The adjustment would also increase jurisdictional rate base by \$39,085,569 for the 2010 test and increase jurisdictional rate base by \$30,399,795 for the 2011 subsequent test year. (TR 2474; OPC BR 102; EXH 244)

ANALYSIS

The policy, that created the refund, was purchased in 1998, a non-base rate setting year, and was never included in the Company's Environmental Cost Recovery Clause (ECRC). This is not an accounting gain but an out-of-period expense reduction that was recorded in 2008, and was related to the period of 1998 through 2007. The expense associated with the purchase and the reduction in expense associated with the refund was properly reflected in the Company's surveillance reports.

Date: December 23, 2009

Staff does not believe that the refund is comparable to the start of construction of a coal plant approved by the Commission and then ordered to stop. Staff does not believe that there is any reason to apply any of this refund to the 2010 test year or the 2011 subsequent test year.

CONCLUSION

Staff does not believe that the adjustment proposed by OPC should be made and recommends no adjustment for FPL's receipt of an environmental insurance refund in 2008.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

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?

Recommendation: Yes. The test year adjustments presented in Exhibit 358 and detailed in Exhibit 477 are appropriate to reflect the expected settlement received from the Department of Energy. (Prestwood, Lester, Barrett)

A. Staff recommends that FPL's O&M Expenses, Depreciation Expense and Taxes Other Than Income Taxes be reduced by \$6,084,000, \$747,000, and \$109,000, respectively, for the 2010 test year. Staff also recommends that Plant in Service, Depreciation Reserve and CWIP be reduced by \$25,866,000, \$252,000, and \$828,000, respectively, for the 2010 test year.

B. If applicable, staff recommends that FPL's O&M Expenses, Depreciation Expense and Taxes Other Than Income Taxes be reduced by \$5,327,000, \$1,542,000, and \$928,000, respectively, for the 2011 subsequent test year. Staff also recommends that Plant in Service, Depreciation Reserve and CWIP be reduced by \$52,713,000, \$1,516,000, and \$1,375,000, respectively, for the subsequent 2011 test year.

Position of the Parties

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.

OPC: Yes, pursuant to FPL witness Ousdahl Exhibit KO-16. For 2010, rate base should be reduced by \$26,759,000 and NOI reduced by \$7,022,000. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, rate base should be reduced by \$53,205,000 and NOI reduced by \$7,892,000.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No. Agree with OPC.

SFHHA: Yes. FPL will recover money from the DOE for DOE's failure to dispose of spent fuel from FPL's nuclear generating facilities. The DOE settlement results in FPL receiving ongoing

Date: December 23, 2009

reimbursements. The Commission should reduce FPL's revenue requirement by \$9.030 million to reflect that recovery.

Staff Analysis:

PARTIES' ARGUMENTS

This issue considers how an expected monetary settlement is incorporated into FPL's books in 2010 and 2011 projected test years. The monetary settlement is the result of a lawsuit FPL filed against the United States Department of Energy (DOE) concerning the disposal of spent nuclear fuel. Staff notes that two exhibits sponsored by FPL witness Kim Ousdahl summarize the test year adjustments for DOE settlement funds FPL made for 2010 and 2011. (EXH 358; EXH 477)

Staff observes that five parties offered "No position" in post hearing briefs for this issue, and three others express their support to the position set forth by the OPC. Staff notes that the record for this issue consists of limited testimony and exhibits from only FPL, OPC, and SFHHA. These three parties agree that test year adjustments are appropriate to reflect the expected settlement received from the DOE, and their respective arguments are summarized below.

FPL witness Ousdahl testified she agreed that FPL should make an updated adjustment to its 2010 Test Year revenue requirements to reflect new information from the DOE. She testified that:

FPL's 2010 Test Year jurisdictional revenue requirements should be adjusted by \$(6.9) million, representing the NO1 impact and \$(3.1) million, representing the rate base impact. These adjustments are based on the amount of capital and operations and maintenance expenses the Company has identified in its 2010 forecast that are expected to be reimbursed by the DOE, and apply the same recovery assumptions from FPL's settlement agreement with the DOE entered into on March 31, 2009 resolving FPL's damages incurred prior to 2008. FPL has calculated these adjustments to its 2010 revenue requirements associated with the expected reimbursement, and has included them as Items 3 and 4 of Exhibit [358] KO-16.

(TR 3712)

FPL contends that the test year adjustments to operating expenses it proposes are "reasonable and appropriate." (FPL BR 92) Two categories are affected by the proposed adjustments, Net Operating Income (NOI) and Rate Base (RB). Below is an excerpt of Exhibit 358.

Date: December 23, 2009

Category Affected	Item No.	Adjustments/Corrections Affecting Company Per Book Amounts	Impact on 2010 Retail Revenue Requirements Increase/(Decrease) (\$000)	Impact on 2011 Retail Revenue Requirements Increase/(Decrease) (\$000)
NOI	3	Adjustment for anticipated operating expenses expected to be reimbursed by the DOE pursuant to the nuclear spent fuel settlement agreement. The adjustment is an increase to pretax NOI resulting from a decrease in operating expenses (O&M, property taxes and depreciation expense) of \$7,022,000 in 2010 and \$7,892,000 in 2011.	(\$6,962)	(\$7,819)
RB	4	Adjustment for anticipated capital expenditures expected to be reimbursed by the DOE in 2010 and 2011 pursuant to the nuclear fuel settlement agreement. The adjustment results in a decrease in rate base of \$26,759,000 in 2010 and \$53,205,000 in 2011.	(\$3,124)	(\$6,314)

(SOURCE: Exhibit 358)

More detailed categories supporting Exhibit 358 are shown on Exhibit 477.

FPL witness Stall explained that FPL will incur capital and O&M expenditures to manage the DOE's failure to begin accepting spent nuclear fuel for disposal as required by law. (TR 808) He further states:

On-site storage capacity for spent fuel in the spent fuel pools is limited. As existing capacity is utilized, alternative methods for storing the spent fuel are required. Alternative storage is required as a prudent operational measure whenever the spent fuel pools can no longer accommodate a full-core offload. Maintaining a full-core offload capability is a prudent measure in the event that all of an entire core of reactor fuel must be offloaded to accomplish emergent repairs to the reactor.

(TR 808)

In its brief, FPL stated that its proposed adjustments for this issue were "not challenged by the intervenors in this proceeding, or which were adjusted after FPL's initial filing to the satisfaction of intervenor witnesses." (FPL BR 92) OPC's witness Brown acknowledged this when cross-examined by FPL. (TR 2538) In summary, FPL believes the adjustments required to reflect the expected settlement from the DOE in the 2010 and 2011 test years are included in Exhibit 358.

OPC witness Brown asserted that DOE settlement funds relate to costs FPL incurred in earlier years that were paid by the ratepayers. As a result, the witness believes the funds should be passed-through to ratepayers. (TR 2479) She believes the DOE settlement dollars should be used to offset (i.e., reduce) fuel costs in 2009, and have no impact on the Test Year revenue

Date: December 23, 2009

requirement. (Brown TR 2479) However, witness Brown agreed with FPL's updated adjustment presented on Exhibit 358 (KO-16)(TR 2538)

In its brief, OPC stated that it agrees with the data presented in Exhibit 358. (OPC BR 103; TR 2538) OPC believes that FPL's 2010's rate base should be reduced by \$26,759,000 and NOI reduced by \$7,022,000. OPC strenuously opposes the subsequent 2011 test year, however, if the 2011 test year is considered, rate base should be reduced by \$53,205,000 and NOI reduced by \$7,892,000. (OPC BR 103)

SFHHA witness Kollen believes that the \$9,000,000 of settlement funds from the DOE should be used by FPL to reduce O&M expenses in 2009. (TR 3110) He asserted that the revenue requirement effect of this action is \$9,030,000. (TR 3137) This figure is reaffirmed in SFHHA's brief for this issue and is referenced again for Issue 128 as well. (SFHHA BR 82, 86)

ANALYSIS

As previously noted, FPL witness Ousdahl summarized FPL's proposed test year adjustments for 2010 and 2011 in Exhibit 358. An excerpt of the relevant portions is included above. (EXH 358) Staff believes it is significant that all parties appear to agree that a test year adjustment is warranted to reflect the expected settlement received from DOE. In its brief, OPC points to Exhibit 358 that references FPL adjustments for the Company's DOE adjustments. (OPC BR 103)

Staff notes that although SFHHA witness Kollen addressed this issue, staff believes he does not persuasively challenge FPL. Staff believes his principle argument is that the DOE funds should be used to reduce O&M expenses. Staff believes FPL's adjustments concerning this matter will reduce certain O&M line items in the 2010 and 2011 test years, as reflected in Exhibit 358.

CONCLUSION

Staff believes the test year adjustments presented in hearing Exhibit 358 and detailed in Exhibit 477 are appropriate to reflect the expected settlement received from the Department of Energy.

A. Staff recommends that FPL's O&M Expenses, Depreciation Expense and Taxes Other Than Income Taxes be reduced by \$6,084,000, \$747,000, and \$109,000, respectively, for the 2010 test year. Staff also recommends that Plant in Service, Depreciation Reserve and CWIP be reduced by \$25,866,000, \$252,000, and \$828,000, respectively, for the 2010 test year.

B. If applicable, staff recommends that FPL's O&M Expenses, Depreciation Expense and Taxes Other Than Income Taxes be reduced by \$5,327,000, \$1,542,000, and \$928,000, respectively, for the 2011 subsequent test year. Staff also recommends that Plant in Service, Depreciation Reserve and CWIP be reduced by \$52,713,000, \$1,516,000, and \$1,375,000, respectively, for the subsequent 2011 test year.

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

Recommendation: Staff recommends that 1) the Company's proposed adjustment for the forecast data be accepted, 2) that no adjustment be made for stale allocation drivers as recommended by OPC, 3) that no adjustment be made for the Massachusetts Formula as recommended by OPC, 4) that no adjustment be made for FPL Energy Services as recommended by OPC, 5) that OPC's recommended adjustment to the charges from FiberNet to FPL be accepted, and 6) that no adjustment be made for the power monitoring revenue as recommended by OPC. The dollar amounts associated with staff's recommendation are shown below. (Prestwood)

A. For the 2010 projected test year?

Staff recommends 1) that O&M expense and Taxes Other Than Income Taxes be decreased by \$3,373,000 and \$510,000, respectively, for the 2010 test year, 2) no adjustment, 3) no adjustment, 4) no adjustment, 5) that O&M expenses be reduced by \$1,182,224 for the 2010 test year, and 6) no adjustment. The total recommended reduction for O&M expense and Taxes Other Than Income Taxes is \$4,555,224 and \$510,000, respectively, for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends 1) that O&M expense and Taxes Other Than Income Taxes be decreased by \$3,592,000 and \$543,000, respectively, for the 2010 test year, 2) no adjustment, 3) no adjustment, 4) no adjustment, 5) that O&M expenses be reduced by \$1,182,224 for the 2010 test year, and 6) no adjustment. The total recommended reduction for O&M expense and Taxes Other Than Income Taxes is \$4,774,224 and \$543,000, respectively, for the 2011 test year.

Position of the Parties

FPL: The only appropriate adjustment is to correct affiliate payroll loadings. That adjustment is listed on Exhibit 358.

No. Consistent with Commission precedent, the Massachusetts Formula appropriately allocates executive costs according to a size-based methodology.

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.

No. FPL's AMF and Massachusetts Formula allocation factors are appropriate and no adjustments are necessary.

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.

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.

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.

No adjustment is necessary.

OPC: Yes. As addressed in Issue 18, the total operating income impact of affiliate adjustments is \$13,844,866 (total company) for 2010 and \$17,992,038 (total company) for 2011. The specific adjustments are discussed below:

To address the problems associated with the size-based nature of the allocation factor and the significant benefits the non-regulated affiliates derive from their association with FPL and FPL Group, the Commission should distribute shared executive costs of FPL Group between FPL and the non-regulated affiliates with 50% assigned to each. This results in a reduction to test year expenses of \$7,935,976 in 2010 and \$7,906,276 in 2011, if the strenuously opposed subsequent year is considered.

The megawatts used to allocate the Power Generation Fee should be updated consistent with the Company's disclosures in its 2008 annual report and testimony filed in this proceeding. Cost drivers for which the Company projected no growth should be updated using the average growth in recent years. Test year expenses should be reduced by \$1,577,060 in 2010 and \$2,881,721 in 2011, if the strenuously opposed subsequent test year adjustment is considered.

The Company did not provide adequate support for its projections of the Massachusetts Formula components for 2010 and 2011. Ms. Dismukes performed an analysis of the growth of each component from 2008 to 2010. This was then compared to the Company's 2011 projections. In instances where the growth appeared abnormal, the average growth from 2008 to 2010 was used.

The Commission should reduce the return on investment used in the determination of charges to FPL from FPL FiberNet to the return allowed for FPL. There is no need for FPL FiberNet to earn a return in excess of the return allowed for FPL. Using the rate of return recommended by Dr. Woolridge, test year expenses should be reduced by \$1,182,224 in 2010 and 2011.

FPL failed to demonstrate the reasonableness of moving the gas margin revenues to its non-regulated affiliate and whether the gas contracts were sold at the higher of cost or market. Therefore, FPL's 2010 and 2011 test year revenues should each be increased as reflected on Exhibit KHD-13 [Exhibit 203] to reflect these margins as belonging to FPL.

FPLES should compensate FPL at market rates for the use of its personnel, billing systems, collection system, postage, paper and any other costs associated with billing the customer.

To the extent that FPL service representatives provide referrals or perform similar functions for FPLES, FPL should be compensated for this invaluable service. The amount of the adjustment is pending further development of the record.

Test year revenues should be increased by \$236,336 for 2010 to reflect the amount of power monitoring revenue projected by the Company. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate increase to revenues is \$267,885 for 2011.

AFFIRM: No position.

AG: Yes. Support OPC's Position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: A. Yes. Agree with OPC.

B. Yes. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Forecast Updates:

FPL witness Ousdahl sponsored Exhibit 358 (KO-16) in her rebuttal testimony and explained that during the course of the proceeding, FPL identified appropriate adjustments to the Company's filing. Exhibit 358 (KO-16) summarizes the adjustments to Rate Base, Net Operating Income, and Capital Structure that FPL is proposing to its original filing. (TR 3708)

Item 5 of Exhibit 358 shows FPL's proposed adjustment due to an over-statement of affiliate payroll loadings. According to FPL, affiliate payroll loading was overstated because it was not based on the final payroll forecast from the business units. Item 5 results in an adjustment to decrease O&M expense and Taxes Other Than Income Taxes by \$3,373,000 and \$510,000 respectively for the 2010 test year. Item 5 results in an adjustment to decrease O&M expense and Taxes other than Income Taxes by \$3,592,000 and \$543,000 respectively for the 2011 subsequent test year. (EXH 358)

Introduction to Affiliate Transactions:

FPL witness Ousdahl provided an overview regarding the methods FPL used to charge costs to its affiliates including FPL's New England Division (FPL-NED), which is a division of FPL, and not a separate affiliate. She also discussed the controls in place to ensure that FPL's retail customers do not subsidize FPL's affiliates. (TR 3650-3657)

There are three ways that FPL charges costs of shared activities to its affiliates according to witness Ousdahl. First, Direct Charges, are costs of resources used exclusively to provide service for the benefit of one company and are directly charged to that company. Second, Service Fees, are costs for ongoing services provided to or shared by affiliates of FPL. Third, Affiliate Management Fees (AMF) are corporate staff infrastructure and governance costs that benefit both FPL and the affiliates and are categorized into specific cost pools. (TR 3652-3653)

Regarding the third category, Affiliate Management Fees (AMF), where distinct cost drivers may be determined Witness Ousdahl stated that

. . . the cost of ongoing services shared jointly to support utility and affiliate operations are allocated using specific factors. Examples of these cost pools include corporate systems applications, support for computer mainframe operations, benefit programs, and corporate security. The drivers to allocate these costs are carefully selected in order to accurately allocate costs. Examples of commonly used drivers include number of personal computers, number of transactions, headcount and square footage;

(TR 3654)

Concerning the cost pools associated with the Affiliate Management Fees (AMF) which do not have distinct cost drivers, Witness Ousdahl explained that these cost pools are,

. . . allocated using the Massachusetts Formula, a methodology widely accepted by utility regulators as a fair and reasonable way to allocate common costs among affiliates. The Massachusetts Formula has three components: property, plant and equipment, revenue and payroll. . . . The use of a calculated average of property, plant and equipment, revenue and payroll appropriately considers the various factors affecting the use of common services. Examples of cost pools that do not have a specific driver include budgeting, and planning, external financial reporting, corporate communications, mail services, and shareholder services.

(TR 3654-3655)

OPC witness Dismukes presented testimony in which she discussed the importance of examining transactions between FPL and its affiliates. She also described FPL Group's organizational structure and the different ways FPL charges its affiliates. She pointed out concerns with different methodologies of charging affiliates and made recommendations for most of those concerns. (TR 2079-2093)

Updates to Specific Drivers:

Concerning the problem that she identified with the Company's use of allocation factors for specific drivers that need to be updated with more current data, OPC witness Dismukes recommended the following,

First, to overcome the problem associated with the Company's use of stale allocation factors, I recommend that the Commission update the specific drivers to reflect the most recent information available. With respect to the Power Generation Division Fee I recommend that the Commission update the installed megawatts using the Company's disclosures in its 2008 annual report and testimony filed in this proceeding. . . . Second, . . . in instances where the Company did not project an increase for the projected test years, I recommend that the Commission increase the allocation drivers based upon recent growth. . . . I recommend that the Commission reduce test year expenses by \$2.3 million in 2010 and by \$5.1 million in 2011.

(TR 2106-2108; EXH 201)

FPL witness Ousdahl responded to the concerns raised about "stale" drivers for certain allocation factors in her rebuttal testimony. Witness Ousdahl stated that,

Ms. Dismukes has made the incorrect assumption that all of the specific drivers used in the AMF will increase over time. To address Ms. Dismukes' concern that the drivers were not current, FPL has 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. The drivers used for the test year forecasts and the new drivers are shown on Exhibit [356] KO-14. The minor fluctuations between the two sets of drivers indicate that many of the new drivers actually decreased.

(TR 3689; EXH 356; FPL BR 81)

FPL witness Ousdahl also addressed the update to the installed megawatts. Witness Ousdahl stated:

FPL again used the most current information available at the time to develop the allocation factors. Contrary to Ms. Dismukes' testimony, this information already included 1,219 MW related to FPL's West County Energy Unit 1 and 864 MW of wind capacity for NextEra for 2009. FPL updated MW information used for these calculations as of the second quarter of 2009. Exhibit 357 (KO-15) shows the current forecasted relative MW of capacity, which are minimally different from those included in the filing.

(TR 3690; EXH 357)

Massachusetts Formula:

OPC Witness Dismukes recommended two adjustments concerning problems she perceived with FPL's use of the Massachusetts Formula. The first problem she addressed was FPL's failure to update the components used in the calculation of the Massachusetts Formula. OPC witness Dismukes recommended the following,

To correct for the failure to update the numerators and denominators of the allocation factors used in the Massachusetts Formula, I compared the three-year average growth rate from 2008 to 2010 for each component, for each affiliate, to the percent change for 2011. If the percent change from 2010 to 2011 was less than the three-year average, I made a determination whether the Company's projection seemed reasonable given the historical data and the assumptions provided by Company. If it appeared that an affiliate experienced unusually high historical growth one year, I chose the Company's projection as the more conservative approach. However, if the Company did not provide an explanation of its assumption or the three-year average was closer to the historical data, I replaced the Company's percentage change with the three-year average percentage change. . . . For each component of the Massachusetts Formula for each affiliate, I applied this logic in examining and testing the Company's projections. . . . I am recommending that the Commission reduce 2011 test year expenses by \$1.4 million to address the problems.

(TR 2108-2110; EXH 201)

OPC witness Dismukes' other perceived problem with the Massachusetts Formula is that it does not account for the benefits that the nonregulated affiliates receive from their association with FPL and FPL Group. Witness Dismukes states that the Massachusetts Formula implicitly assumes that the larger the affiliate, the greater its received benefit from shared services. She recommended the following,

To address the problems associated with the size-based nature of the allocation factor and the significant benefits the nonregulated affiliates derive from being associated with FPL and FPL Group, I recommend that the Commission distribute shared executive costs of the FPL Group between FPL and the nonregulated affiliates with 50% assigned to each. . . . As shown on Exhibit [201] KHD-11, the changes that I recommend concerning the allocation of the AMF reduce charges to the Company in the projected years by \$7.9 million for 2010 and \$7.9 million for 2011.

(TR 2110-2112; EXH 201)

FPL witness Ousdahl addressed OPC witness Dismukes' concerns with the Massachusetts Formula's failure to reflect the benefits that FPL affiliates receive from the shared services. Witness Ousdahl testified that:

The 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. . . . Ms. Dismukes ignores the benefit that FPL and its customers receive from affiliate relationships. FPL has greater access to high quality resources without having to incur the full cost thereof. . . . While I agree that the Massachusetts Formula results in larger allocations for larger companies, this result is entirely appropriate. . . . To the extent we can identify a causal relationship between activities and support services, specific drivers are used to allocate costs. All of these allocations result in the larger companies receiving a larger share of costs. When a similar result occurs because of the application of the Massachusetts Formula for truly unattributable costs, it neither is unexpected nor inappropriate. It is for this very reason the Massachusetts Formula has been so widely accepted in the utility industry as well as by this Commission. No adjustment is necessary to the Massachusetts formula results.

(TR 3690-3692)

In her summary, Witness Ousdahl states:

Ms. Dismukes' recommended adjustments are based on inappropriate trending and 50/50 allocations, and ignore the use of specific drivers and the long standing Massachusetts formula employed by the Company. Her suggested use of trending is clearly inappropriate. She is forecasting the historic trajectory of the growth in affiliates into the 2010 and 2011 timeframe, which quite ignores the constraints faced today in the capital markets which will make it impossible for historical rates of growth to continue.

(TR 3693-3694)

FPL Energy Services:

Witness Dismukes also had concerns about the transactions between FPL Energy Services (FPLES) and FPL. FPLES is an affiliate of FPL that provides energy-related products and services not regulated by the Commission. She raised concerns about the sale of the natural gas business of FPL to FPLES on January 1, 2006. (TR 2114-2118) Concerning the sale of the natural gas business to FPLES, witness Dismukes testified as follows,

Prior to the sale, the margin for the natural gas business was distributed between FPL and FPLES based upon whether the customer was within FPL's service territory or outside its territory. Under this method, the margin earned on the sale of gas to FPL electric customers was recorded on the books of FPL.

(TR 2114-2118)

Witness Dismukes does not believe that the sale of the contracts was at a reasonable price. She stated that she "developed my recommended adjustment by averaging the gross margin earned from these contracts over the five years preceding the sale." (TR 2118) Her proposed adjustment is to recognize a gain on the sale of \$1,090,753 for both the 2010 test year and the 2011 subsequent test year. (TR 2118; EXH 204)

FPL witness Santos testified concerning the sale of the natural gas business of FPL to FPLES on January 1, 2006. Witness Santos stated,

As stated earlier, the matter related to the sale of the FPL gas contracts to FPLES was resolved per the Stipulation and Settlement Agreement. Since 2006, FPLES has been responsible for all activities related to the Gas Business and has assumed all related risk. FPL has not been involved in this business since that time. As such, the gross margins realized from the Gas Business are unrelated to FPL and its rate payers. No adjustment is necessary contrary to Ms. Dismukes' recommendation.

(TR 6059-6060)

The second concern over transactions between FPL and FPLES that Witness Dismukes discussed in her testimony was

Clearly, if FPL is billing on its electric bills for services that FLPES provides to FPL's residential, commercial, and governmental customers, FPLES should compensate FPL for the use of its personnel, billing systems, collection systems, postage, paper and any other costs associated with billing the customer. OPC has issued additional discovery on these matters and intends to present additional information to the Commission on the subject. (TR 2119)

FPL witness Santos also testified concerning FPL's billing on its electric bills for services of FLPES. Witness Santos testified in rebuttal that,

For those FPLES programs that utilize the FPL bill, FPLES compensates FPL accordingly for billing, collection and any other related costs. (TR 6060)

FiberNet:

Concerning the costs charged to FPL by FiberNet, an affiliate of FPL, OPC witness Dismukes recommended the following,

With respect to costs allocated from FiberNet, for the projected test year costs were allocated using fiber miles, fiber capacity, and DS3 capacity. I am recommending one modification to the methodology employed to allocate these costs to FPL. As shown on Exhibit [202] KHD-12, the allocation of costs to FPL is based upon the assets owned by FiberNet. A large portion of the costs allocated to FPL are based upon the return on the assets used by FPL. In developing the amount to charge FPL, the Company used a return on investment . . . I have modified this return to be consistent with the pre-tax overall cost of capital recommended by Dr. Woolridge. The Commission should reject the Company's request to use a rate of return that is substantially in excess of FPL's allowed rate of return and utilize the rate of return recommended by Mr. Woolridge. As shown

on this exhibit, this change results in an estimated reduction to charges for the years 2010 and 2011 of \$1,182,224 [each year].

(TR 2112-2113; EXH 202)

FPL witness Avera's rebuttal Exhibit 363 (Rebuttal to Technical Arguments) states that:

the risks and cost of capital for telecommunications services is generally regarded as higher than for electric utility services, particularly for competitive local exchange companies such as FiberNet. . . . A review of Exhibit JRW-18 reveals that the average beta for the Telecommunications Services industry was 1.43, versus the 0.88 beta value cited by Dr. Woolridge for the electric utility industry and a beta of 1.00 for the overall market.

(EXH 363)

In other words, FPL witness Avera believes this comparison indicates that the risks associated with FiberNet are higher than FPL. As a result, OPC witness Woolridge's recommended overall rate of return for FPL is entirely unrelated to the services provided by FiberNet and Ms. Dismukes' recommendation should be summarily rejected. (EXH 363)

Power Monitoring Revenue:

OPC witness Dismukes recommended an adjustment to revenue related to power monitoring. Witness Dismukes' proposed adjustments shown on Exhibit 205 (KHD-15), increase miscellaneous revenue by \$236,336 and \$267,885 for the 2010 test year and the 2011 subsequent test year, respectively.

FPL witness Ousdahl stated that the data was mislabeled in an informal discovery response as Power Monitoring Revenues and should have been labeled as Regulation Service Revenues. She went on to say,

This description change is supported by FPL's response to OPC's First Set of Interrogatories Question No. 55 where the same amounts are shown for 2006, 2007 and 2008 with a description of Regulation Service Revenues. Even though FPL misidentified the account description, it does not impact the amounts forecasted for Power Monitoring revenues, which are properly reflected in FPL's MFR's.

(TR 3075-3076)

ANALYSIS

Forecast Updates:

FPL's corrections to its original filing presented in Exhibit 358 were not challenged and appear to be reasonable. If the corrections are not accepted, FPL's case would be based upon erroneous data.

Date: December 23, 2009

The forecast updates result in an adjustment to decrease O&M expense and Taxes other than Income Taxes by \$3,373,000 and \$510,000 respectively for the 2010 test year. The forecast updates result in an adjustment to decrease O&M expense and Taxes other than Income Taxes by \$3,592,000 and \$543,000 respectively for the 2011 subsequent test year.

Updates to Specific Drivers:

OPC's recommended adjustment for stale drivers, used for specific drivers of shared affiliate costs, assumes that allocation drivers to affiliates of FPL will always increase. This is not necessarily correct because the percentages representing the drivers are the relative size of one affiliate to another. The constant increase of allocation drivers to affiliates of FPL assumes that the affiliates are always going to grow faster than FPL itself. For example, the specific driver based on the number of personal computers owned by FPL and each affiliate, produces a percentage to allocate certain shared costs. The number of personal computers is not necessarily going to grow faster at the affiliates of FPL than FPL itself. If the specific drivers are growing faster for the affiliates of FPL versus FPL itself, then it would seem that the cost pool to support the growth in the affiliates would also need to be increased to account for the additional work load.

Staff believes that the most current factors should be used in projections, as long as there they are representative of the future and that no changes of an unusual nature have occurred from one measurement period to the next. However, this does not mean that there will always be an increase in the factors over an earlier period.

FPL filed the latest available drivers in Exhibit 356 (KO-14). FPL also filed the latest relative MW capacity between NextEra and FPL available. These exhibits showed that there was not a material change in the specific drivers in the latest quarter of data available and that some drivers went down.

Staff does not believe that OPC's recommended adjustment to reduce expenses by \$2.3 million and \$5.1 million for the 2010 test year and the 2011 subsequent test year, respectively, should be approved.

Massachusetts Formula:

OPC's first recommended adjustment to the Massachusetts Formula, was to change the "numerators and denominators" of the formula based on trending and judgment. In some cases, OPC used a three year average of 2008, 2009, and 2010 and in some cases OPC used the Company's projections, as they were more "conservative". This adjustment does not affect the 2010 test year. This adjustment would reduce expenses for the 2011 subsequent test year by \$1.4 million.

OPC's second adjustment to the Massachusetts Formula was made to better reflect the benefits that the affiliates receive from their association with FPL and FPL Group. OPC recommended that the Massachusetts Formula be changed to distribute the shared executive costs of the FPL Group between FPL and the affiliates by assigning 50 percent to each. This adjustment would reduce FPL's expenses by \$7.9 million and \$7.9 million for the 2010 test year and the 2011 subsequent test year, respectively.

Staff does not believe that the Commission needs to adhere to the Massachusetts Formula without question or examination of its results. However, the Massachusetts Formula was designed to fairly distribute unattributable cost to insure that a regulated company does not subsidize its affiliates. This is why the Massachusetts Formula has been widely accepted in the utility industry and accepted by this Commission in the past. (TR 3654-3655)

Staff does not believe the testimony provided by OPC supported a clear empirical reason to change the use of the Massachusetts Formula in this docket. Staff does not recommend that either adjustment to the Company's forecast based on the Massachusetts Formula, proposed by OPC should be made.

FPL Energy Services:

Staff believes that the issues concerning the gain or losses on the sale of the gas contracts to FPLES by FPL were completely explored and debated in the Company's last rate case, including direct and rebuttal testimony. That case was settled and the Stipulation and Settlement¹⁰⁷ was approved by the Commission. The order stated "This Stipulation and Settlement will resolve all matters in these Dockets . . ."¹⁰⁷

FPL witness Santos testified with respect to the issue raised by OPC witness Dismukes concerning billing inserts done by FPL for FPLES. OPC witness Dismukes' was concerned that FPL might not be receiving compensation for this service. FPL witness Santos stated "for those FPLES programs that utilize the FPL bill, FPLES compensates FPL for these billing services." (TR 6048)

Staff does not recommend that the sale of these contracts be treated as a gain on the sale of \$1,090,753 and \$1,090,753 for the 2010 test year and the 2011 subsequent test year, respectively.

FiberNet:

OPC witness Dismukes proposed lowering the charges from FiberNet to FPL by reducing the rate of return on FiberNet's assets. Witness Dismukes recommended lowering the return charged by FiberNet to that suggested by OPC witness Woolridge. This adjustment would reduce O&M expenses by \$1,182,224 for the 2010 test year and by \$1,182,224 for the 2011 subsequent test year, respectively.

FPL could own its own telecommunications equipment that would be used strictly for its own use. If this were the case, the assets would be a part of the Company's rate base and it would be allowed to earn the same return as the rest of its rate base assets. Staff believes that FiberNet has higher risk as a separate affiliate but the ratepayers should not be required to pay for this additional risk.

While staff does not necessarily agree with the return used by OPC, staff does agree that the return should be approximately what is allowed for FPL. This adjustment decreases O&M expenses \$1,182,224 and \$1,182,224 for the 2010 test year and the 2011 subsequent test year, respectively.

¹⁰⁷ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.

Power Monitoring Revenue:

OPC recommended increasing miscellaneous revenue by \$236,336 and \$267,885 for the 2010 test year and the 2011 subsequent test year, respectively. These increases were to certain revenues thought to be excluded from revenue due to a mislabeling.

It appears that this adjustment was unnecessary and that the revenues associated with this item are correctly shown in the Company's MFRs.

CONCLUSION

Staff recommends that 1) the Company's proposed adjustment for the forecast data be accepted, 2) that no adjustment be made for stale allocation drivers as recommended by OPC, 3) that no adjustment be made for the Massachusetts Formula as recommended by OPC, 4) that no adjustment be made for FPL Energy Services as recommended by OPC, 5) that OPC's recommended adjustment to the charges from FiberNet to FPL be accepted, and 6) that no adjustment be made for the power monitoring revenue as recommended by OPC.

A. For the 2010 projected test year?

Staff recommends 1) that O&M expense and Taxes Other Than Income Taxes be decreased by \$3,373,000 and \$510,000, respectively, for the 2010 test year, 2) no adjustment, 3) no adjustment, 4) no adjustment, 5) that O&M expenses be reduced by \$1,182,224 for the 2010 test year, and 6) no adjustment. The total recommended reduction for O&M expense and Taxes Other Than Income Taxes is \$4,555,224 and \$510,000, respectively, for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends 1) that O&M expense and Taxes Other Than Income Taxes be decreased by \$3,592,000 and \$543,000, respectively, for the 2010 test year, 2) no adjustment, 3) no adjustment, 4) no adjustment, 5) that O&M expenses be reduced by \$1,182,224 for the 2010 test year, and 6) no adjustment. The total recommended reduction for O&M expense and Taxes Other Than Income Taxes is \$4,774,224 and \$543,000, respectively, for the 2011 test year.

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

Ruling: Subsumed in Issue 109.

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

Ruling: Subsumed in Issue 109.

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

Ruling: Subsumed in Issue 109.

Issue 113: Are any adjustments necessary to the costs charges to FPL by FiberNet?

Ruling: Subsumed in 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?

Ruling: Subsumed in Issue 109.

Issue 115: Is an adjustment appropriate to recognize compensation for the services that FPL provides to FPLES for billing on FPL's electric bills?

Ruling: Subsumed in Issue 109.

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

Ruling: Subsumed in Issue 109.

Date: December 23, 2009

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

Recommendation: Staff recommends that no adjustments for this issue be made. (Prestwood)

A. For the 2010 projected test year?

Staff recommends no adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: Yes. Consistent with Commission practice, the gain on sales of utility assets should be passed onto customers and amortized over five years. This increases test year revenue by \$1,090,753 for 2010. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the same increases to test year revenues is appropriate for 2011.

AFFIRM: No position.

AG: Yes. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

OPC witness Dismukes sponsored Exhibit 204 (KHD-14), which showed that during 2007 and 2008 the Company sold several assets to its affiliates which resulted in a gain on sale. As shown on Exhibit 204, during 2007, the Company sold 15 assets which resulted in a total gain of \$4.6 million. The largest gain resulted from the sale of a combustion turbine rotor to FPL Group, Inc. which resulted in a gain of \$4.5 million. During 2008, the Company sold 14 assets

which resulted in a gain of \$877,706. The largest gain, \$872,974, related to a transformer sold to Calhoun Company I, LLC. The total gains for both years amounted to \$5.5 million. (TR 2122-2123)

According to OPC witness Dismukes,

There have been numerous cases in which the Commission has ruled on the disposition of either a gain or a loss on the sale of utility assets. The Commission has typically included the gain on sale above the line and amortized the gain over five years. The Commission recently addressed this issue in connection with transaction and transition costs concerning Florida City Gas. In its decision, the Commission found:

We find that the transaction and transition costs do not fit the description of plant costs to be included in Account 114. These costs are more appropriately recorded as a regulatory asset to be amortized over five years. A regulatory asset is a cost that is capitalized and recovered over a future period, rather than charged to expense when incurred. This approach has been used by us for recording of gains and losses for plant sales. Normally, gains are amortized back to customers over an appropriate period as decided by this Commission, usually five years. For instance, Southern States Utilities, Inc. was required to amortize gains on the sale of facilities and land over a period of five years. We found that "[when] a utility sells property that was formerly used and useful or included in uniform rates, the ratepayers should receive the benefit of the gain on sale of such utility property.

(TR 2123)

OPC witness Dismukes recommended that the Commission pass these gains on to customers and amortize them over five years. Her adjustment is shown on Exhibit 204 (KHD-14). This adjustment results in an increase in net operating income of \$1.1 million for both the 2010 test year and the 2011 subsequent test year. (TR 2123; EXH 204)

FPL witness Ousdahl explained that the Commission orders cited by OPC witness Dismukes refer to transactions for the sale of entire gas systems and the sale of land. Witness Ousdahl states:

Ms. Dismukes cites FPSC Docket No. 060657-GU, Order No. PSC-07-0913-PAA-GU, issued November 7, 2007. This order relates to the sale of an entire gas plant. The order also includes an embedded reference to FPL Docket No. 830465-EI, Order No. 13537, issued July 24, 1984. This order discusses regulatory treatment for a gain on sale of land. These transactions represent sales of facilities and land, and Commission policy for the amortization of gains or losses on the sale of these entire systems and land parcels would be appropriate. However, Ms. Dismukes attempts to apply this Commission policy to FPL's sale of retirement

Date: December 23, 2009

units which were transacted in 2007 and 2008. Gains and losses that arise from the sale or interim retirement of retirement units of a utility are deferred to the balance sheet and accounted for in future depreciation. 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. 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. The 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. (TR 3692-3693)

ANALYSIS

Staff believes that FPL has applied the correct interpretation to the Uniform System of Accounts and applied the correct accounting to the gains referred to in this issue. The treatment recommended by OPC is appropriate for the sale of entire systems and land.

CONCLUSION

Staff recommends that no adjustments for this issue be made.

A. For the 2010 projected test year?

Staff recommends no adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no adjustments related to this issue for the 2011 subsequent projected test year.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

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

Ruling: Subsumed in Issue 109.

Issue 118: Intentionally Blank

Date: December 23, 2009

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?

Recommendation: Staff recommends that OPC's recommendation be denied. Staff does believe that the Commission should be notified when this transfer is ready to take place and supplied with the details of the entries the Company intends to make. However, staff believes that this transaction does not affect the revenue requirements of this case and does not need to be addressed by the Commission in this docket. (Prestwood)

Position of the Parties

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.

OPC: Yes. The Commission should ensure that at the time of the transfer of FPL-NED assets to a separate company under FPL Group Capital the assets are transferred at the higher of cost or market as required by its affiliate transaction rules. The Commission should also order an independent appraisal as required by Rule 26-6.1351(d).

AFFIRM: No position.

AG: Yes. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

OPC witness Dismukes made recommendations for safeguarding ratepayers from any risks related to the transfer of FPL-NED assets to a separate company under FPL group capital. Witness Dismukes testified that:

The Commission should ensure that at the time of the transfer to this new company, the assets are transferred at the higher of cost or market as required by its affiliate transaction rules. In addition, the Commission should order that an independent appraisal be prepared as to the fair market value of these assets, as

required by its rules on affiliate transactions.

(TR 2128)

FPL witness Ousdahl stated that the provision of the Commission's affiliate rule 25-6.1351-3(d) F.A.C. does not apply to the situation of FPL-NED. Witness Ousdahl testified that:

Section 3(d) of the affiliate rule applies the requirement 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 nonregulated affiliate. This rule does not apply because FPL-NED assets have never been used in operation in any Florida retail jurisdiction regulated by the FPSC.

(TR 3074-3075)

ANALYSIS

OPC made recommendations concerning the future transfer of the New England Division's assets to a separate subsidiary. Essentially, it was recommended that Commission's affiliate Rule 25-6.1351-3(d) F.A.C. be applied to the transfer.

Staff believes that this rule would not apply because these are not assets used in FPL's Florida utility operations and never have been.

CONCLUSION

Staff recommends that OPC's recommendation be denied. Staff does believe that the Commission should be notified when this transfer is ready to take place and supplied with the details of the entries the Company intends to make. However, staff believes that this transaction does not affect the revenue requirements of this case and does not need to be addressed by the Commission in this docket.

Date: December 23, 2009

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?

Recommendation: Yes. Staff recommends that the reserve target level for Storm Damage be set at \$650 million and the annual accrual level for Storm Damage be set at \$50 million. (Prestwood)

A. For the 2010 projected test year?

Staff recommends an adjustment to decrease O&M expense by \$99,111,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends an adjustment to decrease O&M expense by \$99,110,700 for the 2011 subsequent test year.

Position of the Parties

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.

OPC: Yes. The accrual should be eliminated for 2010 and the target level of the reserve is \$200 million. Current customers are already paying for past storms and should not be doubly burdened by unknown future storms. To charge current customers for both historical and projected storms would actually cause an inequity to current ratepayers. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate accrual is zero.

AFFIRM: No position.

AG: Yes. Support OPC's position.

AIF: No. AIF supports FPL position that the storm damage reserve should be approved as requested with this rate hearing.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

Date: December 23, 2009

FRF: Yes. The Commission should deny, in its entirety, FPL's request for an additional \$150 Million per year storm reserve accrual for both test years.

SFHHA: Yes. FPL should not be permitted to reestablish an annual storm damage accrual in base rates, including establishment of a storm damage reserve while it continues to collect a storm damage surcharge for these same purposes.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Pimentel testified as to the amount requested for FPL's proposed annual accrual for storm damage and the target for its storm damage reserve. He stated that:

FPL has proposed that the Commission establish the annual accrual in base rates to be \$150 million and a target reserve level of \$650 million. The annual accrual approximates the expected amount of annual storm losses. As discussed in the testimony of FPL witness Harris assuming an annual accrual of \$150 million, a two-year surcharge recovery of any deficit storm damage reserve balances that may occur during this period, and an initial Reserve balance of \$215 million . . . the expected balance of the Reserve would be approximately \$382 million after five years.

(TR 4854-4855)

FPL witness Pimentel described the key policy considerations underlying the storm cost recovery framework he believed have been clearly acknowledged by past Commission treatment of storm restoration costs, as articulated in Orders Nos. PSC-93-0918-FOF-EI, PSC-95-0264-FOF-EI and PSC-95-1588-FOF-EI. (TR 4855) According to witness Pimentel, the key principles are:

First, storm restoration is a cost of providing electric service in Florida and is therefore, properly recoverable through the rates and charges of the Company. While we cannot predict with certainty when storms will occur, we can predict with virtual certainty that tropical storms and hurricanes will affect our service territory and we will incur costs for restoring power. However, those costs are not reflected in the Company's base rates.

Second, each "generation" of customers should contribute to the cost of storm restoration, even if no storm strikes in a particular year. Since storms will occur and only their timing is uncertain, the true cost of providing electric service should include an allowance for a level of restoration activity that approximates the expected annual storm costs.

Third, "pre-funding" restoration costs sufficient to cover an extreme sub-period of storm activity (ie., building up a Reserve sufficient to cover virtually all storm restoration) is likely to be economically inefficient. Thus, some mechanism for recovery of the prudently incurred costs that exceed the Reserve is required.

(TR 4855-4856)

FPL witness Pimentel went on to explain that since Hurricane Andrew, commercial insurance to cover storm cost has been unavailable. He described the framework he believes to be endorsed by the Commission which consists of three main parts: (1) an annual storm accrual; (2) a Reserve adequate to accommodate most but not all storm years; and (3) a provision for utilities to seek recovery of costs that go beyond the Reserve. Witness Pimentel testified that,

These three parts act together to allow FPL over time to recover the costs of storm restoration, while at the same time balancing competing customer interests, namely: holding the ongoing impact to reasonable levels; minimizing the volatility of "rate shock" in customer bills which occurs when the Reserve is insufficient, (the timing of which could adversely impact customers when they are experiencing repair costs of their own); and promoting intergenerational equity.

(TR 4856-4857)

FPL witness Pimentel stated that the Commission's policy is to determine a reserve balance sufficient to protect against most year's storm restoration costs, but not the most extreme years. This reduces the use of special customer assessments and provides more stability in customer bills. (TR 4857)

As a result of the 2004 storm season, costs incurred to restore electric service following Hurricanes Charley, Frances, and Jeanne, totaled \$890 million (net of insurance proceeds), completely depleting FPL's Reserve. In Order No. PSC-05-0937-FOF-EI,¹⁰⁸ the Commission approved a surcharge of \$1.65 (per 1,000 kWh residential bill) which was intended to eliminate the deficit in the reserve. (TR 4859-4860)

Witness Pimentel then explained what happened to the Company's storm reserve as a result of the 2005 storm season. He testified that,

In 2005, another very active storm season, four Hurricanes inflicted damage on FPL's system. Restoration costs associated with Hurricanes Dennis, Katrina, Rita and Wilma increased the Reserve deficiency by approximately \$816 million, leaving a deficit balance in the Reserve in excess of \$1.1 billion. The Storm Restoration Surcharge was designed to recover approximately \$300 million of that amount by February 2008, leaving approximately \$800 million to be recovered through another means, as well as the question of how best to restore the Reserve to a reasonable level going forward.

(TR 4860)

Witness Pimentel discussed how the 2005 Settlement¹⁰⁹ addressed the issues of storm cost recovery and the replenishment of the reserve as follows:

¹⁰⁸ Order No. PSC-05-0937-FOF-EI, issued September 21, 2005, in Docket No. 041291-EI, In re: Petition for Authority to Recover Prudently Incurred Storm Restoration Cost Related to the 2004 Storm Season that Exceed the Reserve balance, by Florida Power & Light Company.

¹⁰⁹ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.

The Settlement Agreement: (1) suspended the then current base rate accrual of \$20.3 million; (2) provided that FPL will be entitled to recover prudently incurred storm restoration costs and replenish the Reserve to a level approved by the Commission; and (3) allowed recovery of prudently incurred storm restoration costs and replenishment of the Reserve through charges that are incremental to base rates, either through a charge established through Section 366.8260, Florida Statutes or another form of surcharge.

(TR 4860)

Next FPL witness Pimentel addressed the effects of Commission Order No. PSC-06-0464-FOF-EI¹¹⁰ approving the issuance of bonds to finance storm restoration costs. He stated:

The Commission approved the issuance of Bonds in the amount of up to \$708 million, provided the initial average retail cents per kWh for the Bonds would not exceed the average retail cents per kWh for the Storm Restoration Surcharge which was then in effect. The proceeds from the issuance of Bonds authorized by this Financing Order were required to be used by FPL to finance the after-tax equivalent of the following amounts: (1) approximately \$199 million in unrecovered 2004 storm-recovery costs as of July 31, 2006 (estimated); (2) approximately \$736 million in 2005 unrecovered storm-recovery costs (estimated); (3) replenishment of FPL's Reserve to the level of \$200 million; and (4) \$11.4 million in financing costs (estimated) associated with the Bonds. To the extent there were differences between the actual and estimated balances for unrecovered 2004 and 2005 storm restoration costs and between the actual and estimated financing costs, the differences were to be reflected through an adjustment to the Reserve.

(TR 4861-4862)

FPL witness Pimentel discussed that "FPL commissioned studies to calculate the annual amount of expected windstorm losses, as well as the expected value of the Reserve given various funding levels. The studies were prepared by and are being sponsored by FPL witness Harris of ABS Consulting. Witness Pimentel explained, based in part on information from the study by ABS Consulting, that "FPL recommends a \$650 million target reserve level." (TR 4863-4866)

Witness Pimentel further explained that:

Although a Reserve of \$650 million is not necessarily what FPL would project as the ideal Reserve level going forward, weighing a number of factors including (i) an expected annual cost for windstorm losses, taking into consideration the storm hardening activities, of approximately \$146.6 million to \$153.3 million as determined by FPL's outside expert FPL witness Harris, (ii) the possibility that Florida is in the midst of a much more active hurricane period relative to average levels of activity over the much longer term, (iii) the impact of the recent severe and unprecedented storm seasons on customer bills in the near term, and (iv) the

¹¹⁰ Order No. PSC-06-0464-FOF-EI, issued May 30, 2006, in Docket No. 060038-EI, In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company.

opportunity to revisit this issue in future proceedings, establishing a target Reserve level of \$650 million is reasonable at this time.

(TR 4866)

FPL witness Harris presented the results of ABS Consulting's independent analyses of risk of uninsured loss to FPL assets. Exhibit 127 (SPH-1) presents the result of the Storm Loss Analysis and the Reserve Performance Analysis. Witness Harris described the studies performed by ABS Consulting as,

ABS Consulting performed two studies relative to FPL's reserve . . . the Storm Loss Analysis (the "Loss Analysis") and the Reserve Performance Analysis (the "Performance Analysis").

(TR 3492)

Witness Harris summarized the results of the Storm Loss Analyses and "concluded that the total expected annual loss to FPL's system from hurricanes and tropical windstorms is estimated to be \$153.3 million." (TR 3496)

Witness Harris summarized the results of the Reserve Performance Analysis. He said that,

Reserve performance can be viewed in terms of the expected balance of the reserve and the likelihood of insolvency occurring in any year of the five-year periods. Based on the simulated loss distributions, there is some likelihood of the reserve having a negative balance for each of the annual accrual levels analyzed. Higher accrual levels will result in a lower probability of the reserve having a negative balance, and will have a higher probability of a positive reserve balance at the end of the five-year simulation period.

(TR 3500-3501)

Witness Harris was asked if FPL's selection of a \$650 million target level for the reserve is adequate. He answered that "[b]ased on the current value of FPL's T&D assets, a reserve balance of \$650 million would be adequate to cover uninsured losses during most, but not all, storm seasons." (TR 3501) Witness Harris was asked for his conclusion with respect the \$150 million annual level of accrual selected by FPL.

. . . My analysis indicates that, with an expected annual loss of \$153.3 million, an annual accrual of \$150 million and the ability to recover any negative reserve balances over a two-year period, the balance of the reserve at the end of five years would grow from the initial \$215 million to an expected balance of \$382 million. .

..

(TR 3503)

In asking whether the Company should be allowed the proposed annual accrual of \$150 million with a target reserve of \$650 million, OPC witness Brown answered no. She testified:

While Mr. Pimentel notes some key policy considerations, the balancing of generational ratepayer interests is extremely important in this case. FPL's customers are currently facing tough economic times. FPL's requested storm damage accrual of \$150 million a year is over 14% of FPL's requested 27% increase in base rates. While it is not reasonable or feasible for customers to pay for storm costs in the year of occurrence and thus requires customers over several generations to provide revenues to cover such costs, the Commission must also recognize that current ratepayers are already paying a substantial amount to cover past storms, as well as replenishment of the storm reserve fund to over \$200 million. In 2010, FPL anticipates storm recovery revenues of \$93.957 million. Generational sharing of costs does not require pre-funding and may result in deferred cost recovery or securitization such as the current securitized bonds covered by the storm recovery surcharges.

(TR 2470)

SFHHA witness Kollen testified that a change had occurred from collecting storm cost through base rates to a surcharge. He testified that the Company presently recovers no storm damage expense through base rates. Instead, the Company presently recovers storm damage expense through a levelized surcharge to recover the securitization and related costs over a 12-year period. (TR 3142-3145)

ANALYSIS

Staff believes that FPL should begin the process of building a storm cost reserve through base rates that is adequate to accommodate most but not all storm years. The \$650 million target seems to be a reasonable target based upon ABS Consulting's study.

Staff notes that there are provisions for the protection of utilities to allow them to seek recovery of prudently incurred storm costs that go beyond the Reserve level, in other words, a safety net as the last resort. However, these costs may ultimately be borne by the ratepayers.

While staff supports the process of building a storm cost reserve, it is concerned that customers are already paying a surcharge for past storm costs. However, if, the Company does not begin the process of providing for future storm costs that exceed the Company's current reserve levels, customers could face a situation of paying additional surcharges for new storm costs on top of existing surcharges. Allowing the Company to begin collecting an annual accrual of \$150 million would have the same effect as double surcharges in the future.

Staff is also very concerned with the economic times FPL's customers are facing. Staff believes that FPL should be permitted to accrue a gradual increase in the storm damage reserve.

CONCLUSION

Staff recommends that the Company's reserve target for Storm Damage be set at the \$650 million level and the annual accrual level for Storm Damage be set at an annual level of \$50 million.

A. For the 2010 projected test year?

Staff recommends an adjustment to decrease jurisdictional O&M expense by \$99,111,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends an adjustment to decrease jurisdictional O&M expense by \$99,110,700 for the 2011 subsequent test year.

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

Recommendation: The appropriate adjustment for fossil dismantlement accrual are shown in A and B.

A: Staff recommends that the appropriate system annual provision for dismantlement for 2010 projected test year should be increased by \$3,147,274 (including solar) and the retail annual accrual should be increased by \$ 2,640,568 (excluding solar). (Gardner, P. Lee)

B: If applicable, staff recommends that the appropriate system annual provision for dismantlement for the 2011 subsequent test year should be increased by \$3,147,274 (including solar) and the retail annual accrual should be increased by \$2,641,393 (excluding solar). (Gardner, P. Lee)

Position of the Parties

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

OPC: FPL's quantification is unreasonable, in that it represents a worst case scenario for terminal net salvage.

AFFIRM: No position.

AG: Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Contributions to the fossil dismantlement accrual should cease until the next dismantlement study is filed.

FRF: Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Parties' arguments are discussed in Issue 42.

ANALYSIS

Staff's Analysis is discussed in Issue 42.

CONCLUSION

As set forth in Issue 42, staff recommends that the appropriate system annual provision for dismantlement should be increased by \$3,147,274 (including solar) and the annual accrual for 2010 and 2011 should be increased by \$2,640,568 and \$2,641,393 (excluding solar), respectively. If the Commission disagrees with staff in Issue 42, the Commission's decision for that issue should be reflected here.

Date: December 23, 2009

Issue 122: What is the appropriate amount and amortization period of Rate Case Expense?

Recommendation: Staff recommends that the Commission reduce the Company's total rate case expense as originally filed, by the \$450,000 for overtime and or bonuses for salaried employees. Total rate case expense as adjusted is \$3,207,000. Staff recommends that total rate case expense be amortized over a four year period at an amortization of \$801,750 per year. Finally, staff recommends that the unamortized balance of rate case expense be excluded from working capital.

A. For the 2010 projected test year?

Staff recommends an adjustment to reduce rate case amortization expense by \$217,250 for the 2010 test year. Staff also recommends an adjustment to reduce jurisdictional working capital by \$2,948,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends an adjustment to reduce rate case amortization expense by \$417,250 for the 2011 subsequent test year. Staff also recommends an adjustment to reduce jurisdictional working capital by \$1,829,000 for the 2011 subsequent test year.

Position of the Parties

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.

OPC: Rate case expense should be reduced to disallow recovery of rate case expense associated with the subsequent year rate increase and GBRA; overtime or bonuses for salaried employees to work on this rate case; external audit fees of aviation flight logs and cellular phone fees. A five-year amortization period is appropriate, the time period since FPL's last rate case.

AFFIRM: No position.

AG: Support OPC'S position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The rate case expense amortization period should be 5 years. In no event should the amortization period be less than four years as found appropriate in the recent Tampa Electric rate case.

FRF: Agree with FIPUG.

SFHHA: No position.

Staff Analysis

PARTIES' ARGUMENTS

FPL witness Ousdahl explained that FPL is proposing a three year amortization period for its estimated rate case expenses totaling \$3.7 million. She stated that recovery of necessary rate case expenses is appropriate and historically has been included in the Company's revenue requirement. She testified that,

Similar to FGPP cost recovery, the unamortized balance must be included in rate base in the Test Year in order to avoid an implicit disallowance. 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 3639-3640; FPL BR 87)

No other party presented testimony on this issue.

In its original projection of rate case expense, FPL included \$450,000 for overtime or bonuses for salaried employees to work on this rate case. (TR 6518-6520; OPC BR 115)

FPL provided an update to its rate case expense in Exhibit 536. The Company's update in total rate case expense showed an increase from \$3,657,000 to \$4,967,000. (EXH 180; EXH 536) Although Exhibit 536 showed a substantial increase over the Company's original projection, the Company did not ask for the increase to be included in its revenue requirements. (TR 6517-6518; FPL BR 87-88; EXH 536)

FPL witness Davis testified that if FPL were filing a rate case based on the 2010 test year only, without a requested increase based on 2011, and without a requested increase based on the GBRA, the original rate case expense projection of \$3,657,000 would be a very fair estimate. (TR 6517-6518; FPL BR 87-88)

In its brief, OPC pointed out several areas of rate case expense that it felt should be taken into consideration resulting in a reduction to rate case expense. These areas include the rate case expense associated with the subsequent year increase and GBRA; overtime or bonuses for salaried employees to work on this rate case; external audit fees of aviation flight logs and cellular phone fees. OPC also recommended an amortization period of five years.

ANALYSIS

Staff believes the increase of \$1,310,000 shown in the Company's update is excessive. However, the Company did not request that the increase to be included in its revenue requirements.

The total rate case expense, as originally filed, is \$3,657,000 and is a fair estimate of what rate case expense would have been without the subsequent 2011 test year and GBRA request. Use of total rate case expense of \$3,657,000 is consistent with staff's recommendations to deny the subsequent 2011 test year and GBRA request. FPL included \$450,000 for overtime and or bonuses for salaried employees in its original total rate case expense filing. The Commission has historically disallowed recovery of additional pay or bonuses as a part of rate

case expense.¹¹¹ In Order No. PSC-08-0327-FOF-EI,¹¹² the Commission stated "Salaried Overtime Pay for Extraordinary Work Load" shall be disallowed because these employees and managers are paid a salary, not an hourly wage. Salaried employees are usually expected to work the hours required to complete their job duties without extra compensation. (OPC BR 115)

Staff does not agree with the Company that that the unamortized balance of rate case expense should be included in rate base. Historically, the unamortized balance of rate case expenses has been excluded from rate base to reflect a sharing of the rate case cost between the ratepayers and the shareholders.¹¹³ Rate case expenses are recognized in expense, and recovered from ratepayers through the amortization process as a cost of doing business in a regulated environment. However, the unamortized balance of rate case expense has been excluded from rate base to reflect that an increase in rates is a benefit for the shareholders. The Company included \$2,948,000 and \$1,829,000 in working capital for the 2010 test year and 2011 subsequent test year, respectively. (EXH 180, MFR Schedule B-2)

Staff also believes that rate case expense should be amortized over a four year period which is consistent with the Commission's decision in several recent decisions.¹¹⁴ Staff believes that four years is a more likely time period than three or five years for the Company's next filing.

It appears that the Company made a mistake in its rate case expense projections. The Company showed the jurisdictional expense, based on a three year amortization, on Exhibit 182, MFR Schedule C-2, as \$1,019,000 for the 2010 test year and showed the jurisdictional expense, based on a three year amortization, on Exhibit 180, MFR Schedule C-2 as \$1,219,000 for the 2011 subsequent test year. Staff believes the amount for the 2010 test year should have been \$1,219,000.

CONCLUSION

Staff recommends that the Commission reduce the Company's total rate case expense of \$3,657,000, as originally filed, by the \$450,000 for overtime and or bonuses for salaried employees. Total rate case expense as adjusted is \$3,207,000. Staff recommends that total rate case expense be amortized over a four year period at an amortization of \$801,750 per year. Finally, staff recommends that the unamortized balance of rate case expense be excluded from working capital.

¹¹¹ See Order No. PSC-08-0327-FOF-EI, issued May 19, 2008 in Docket No. 070304-EI, In re: Petition for rate increase by Florida Public Utilities Company.

¹¹² Id.

¹¹³ Order No. 14030, issued January 25, 1985, in Docket No. 840086-EI, In Re: Application of Gulf Power Company for authority to increase its rates and charges; Order No. 16313, issued July 8, 1986, in Docket No. 850811-GU, In Re: Petition of Peoples Gas System, Inc. for authority to increase its rates and charges in Hillsborough County; Order No. 23573, issued October 3, 1990, in Docket No. 891345-EI, In Re: Application of Gulf Power Company for a rate increase.

¹¹⁴ See Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company.

A. For the 2010 projected test year?

Staff recommends an adjustment to reduce rate case amortization expense by \$217,250 for the 2010 test year. Staff also recommends an adjustment to reduce jurisdictional working capital by \$2,948,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends an adjustment to reduce rate case amortization expense by \$417,250 for the 2011 subsequent test year. Staff also recommends an adjustment to reduce jurisdictional working capital by \$1,829,000 for the 2011 subsequent test year.

Issue 123: Should an adjustment continue to be made to Administrative and General Expenses to eliminate "Atrium Expenses per Order No. 10306, Docket No. 810002-EU? (Category 2 Stipulation)

A. For the 2010 projected test year?

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

Approved Stipulation: No. The atrium has been retired and the adjustment is no longer necessary.

Issue 124: Should FPL's request to move payroll loading associated with the Energy Conservation 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?

Recommendation: No. Staff recommends that the Company's proposed adjustment to remove FICA and unemployment taxes, associated with payroll through the ECCR, from base rates and to recover those cost through the ECCR clause be denied. (Prestwood)

- A. For the 2010 projected test year?

Staff recommends that O&M expenses be increased by \$1,582,000 for the 2010 test year.

- B. For the 2011 subsequent projected test year?

If applicable, staff recommends that O&M expenses be increased by \$1,449,000 for the 2011 subsequent test year.

Position of the Parties

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.

OPC: No. These costs are appropriately recovered in base rates and should not be transferred to the ECRC.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. This would allow FPL to reflect changes in payroll loading (an indirect cost) in the clause. Clause recovery should be limited to recovery of direct costs.

FRF: No. Agree with OPC.

SFHHA: No position.

Staff Analysis

PARTIES' ARGUMENTS

FPL witness Ousdahl testified that:

This company adjustment applies payroll loadings consistent with the payroll dollars recovered through the energy conservation cost recovery (ECCR) clause. Currently, FPL makes an adjustment to the ECCR clause to reduce total payroll loadings related to compensation associated with conservation employees by the amount of loadings for FICA and unemployment taxes. This adjustment has been required due to a finding in Docket No. 850002-PU that these items were already included in base rates at that time. FPL is proposing to remove \$1.6 million for 2010 and \$1.5 million for 2011 for the FICA and unemployment taxes remaining in base rates, in order to facilitate recovery of fully loaded ECCR payroll costs through the ECCR clause beginning in 2010. The amount of these loadings varies directly with payroll costs charged to the ECCR clause, so it is appropriate that they be recovered via that mechanism.

(TR 3648-3649; EXH 180))

No other party presented party presented testimony on this issue.

ANALYSIS

The Company's adjustment would shift more cost to the recovery clauses. As the Company noted, the Commission required that the loadings on payroll recovered through the ECCR remain in base rates in Docket No. 850002-PU. The Company has presented no compelling reason to shift these costs from base rates to the energy conservation cost recovery (ECCR) clause.

CONCLUSION

Staff recommends that the Company's proposed adjustment to remove FICA and unemployment taxes, associated with payroll through the ECCR, from base rates and to recover those cost through the ECCR clause be denied.

A. For the 2010 projected test year?

Staff recommends that O&M expenses be increased by \$1,582,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that O&M expenses be increased by \$1,449,000 for the 2011 subsequent test year.

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?

Recommendation: No. Staff recommends that the Company's proposed adjustment to remove FICA and unemployment taxes, associated with payroll recovered through the capacity clause, from base rates and to recover those cost through the capacity clause be denied. (Prestwood)

A. For the 2010 projected test year?

Staff recommends that O&M expenses be increased by \$427,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that O&M expenses be increased by \$502,000 for the 2011 subsequent test year.

Position of the Parties

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.

OPC: No. These costs are appropriately recovered in base rates and should not be transferred to the CCRC.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. This would allow FPL to reflect changes in payroll loading (an indirect cost) in the clause. Clause recovery should be limited to recovery of direct costs.

FRF: No. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl testified that:

This company adjustment applies payroll loadings consistent with the payroll dollars recovered through the capacity clause. Currently, FPL has not been including payroll taxes related to compensation associated with incremental security through the capacity clause. FPL proposes to remove \$430 thousand from base rates in the 2010 Test Year and \$506 thousand from the 2011 Subsequent Year for payroll taxes related to compensation associated with incremental security, in order to facilitate recovery of fully loaded incremental security payroll costs through the capacity clause beginning in 2010. These loadings are incremental and vary directly with incremental security payroll costs charged to the capacity clause.

(TR 3648; EXH 180)

No other party presented party presented testimony on this issue.

ANALYSIS

The Company's adjustment would shift more cost to the recovery clauses. The Company has presented no compelling reason to shift these costs from base rates to the capacity clause.

CONCLUSION

Staff recommends that the Company's proposed adjustment to remove FICA and unemployment taxes, associated with payroll recovered through the capacity clause, from base rates and to recover those cost through the capacity clause be denied.

A. For the 2010 projected test year?

Staff recommends that O&M expenses be increased by \$427,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that O&M expenses be increased by \$502,000 for the 2011 subsequent test year.

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?

Recommendation: Staff recommends that the Company's proposal to reduce incremental hedging costs due to its update in Exhibit 358 be accepted. Staff also recommends that the Company's adjustment to transfer incremental hedging costs from the fuel clause to base rates be accepted. (Prestwood, Lester, Barrett)

A. For the 2010 projected test year?

Staff recommends that expenses be increased by \$650,000 (\$702,000-\$52,000) for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that O&M expenses be increased by \$670,000 (\$722,000-\$52,000) for the 2011 subsequent test year.

Position of the Parties

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.

OPC: No. The Commission should deny FPL's request and continue to review the prudence and reasonableness of FPL's hedging costs during the annual Fuel Clause proceeding.

AFFIRM: No position.

AG: No. Support OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No, hedging costs should be reviewed on an annual basis for prudence and reasonableness.

FRF: No. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Forecast Updates:

FPL witness Ousdahl sponsored Exhibit 358 (KO-16) in her rebuttal testimony and explained that during the course of the proceeding, FPL identified appropriate adjustments to the Company's filing. Exhibit 358 (KO-16) summarizes the adjustments to Rate Base, Net Operating Income, and Capital Structure that FPL is proposing to its original filing. (TR 3708)

Item 20 of Exhibit 358 shows FPL's proposed adjustment due to an over-statement of O&M cost associated with hedging cost. In its adjustment in Exhibit 180 MFR Schedule C-2, the Company overstated the increase in O&M cost by \$52,000 in each of the test years. This is a Company adjustment to transfer cost associated with hedging activities from the fuel adjustment clause to base rates as more fully described below.

Incremental Hedging Cost recovery Method:

This issue relates to the recovery of incremental hedging costs. As a point of clarification, staff notes that "incremental" hedging costs are administrative in nature, whereas "actual" hedging costs are the prudently-incurred gains and losses from fuel price hedging activities. Staff observes that "actual" hedging costs are charged to the fuel cost recovery clause pursuant to Order No. PSC-02-1484-FOF-EI¹¹⁵. In addition, "actual" hedging costs are much larger than "incremental" hedging costs.

Witness Ousdahl testified that:

Incremental hedging costs of \$715 thousand for 2010 and \$736 thousand for 2011 primarily consist of the labor costs associated with the trading, back office, and middle office staff employed in support of the Company's Commission-sanctioned fuel hedging program. In accordance with Commission Order No. PSC-02-1484-FOF-EI, issued October 30, 2002, in Docket No. 011605-EI, incremental costs associated with the Company's hedging program were recoverable as a part of the fuel clause until the earlier of 2006 or the establishment of new base rates in the Company's next base rate case. FPL's clause recovery of its incremental hedging costs was extended in Docket No. 050001-EI, Order No. PSC-05-1252-FOF-EI, issued on December 23, 2005, through at least December 31, 2009 and thereafter until FPL's next base rate proceeding. At this time, it is appropriate to include these costs in the current base rate revenue requirements calculations.

(TR 3647-3648; EXH 180)

Although OPC filed a position in opposition to transferring this cost to base rates, none of its witnesses addressed this issue. Staff notes, however, that OPC's position appears to address actual fuel hedging costs, as opposed to incremental (i.e., administrative) hedging costs.

¹¹⁵ Order No. PSC-02-1484-FOF-EI, issued October 30, 2002, in Docket No. 011605-EI, In re: Review of investor-owned electric utilities' risk management policies and procedures.

Date: December 23, 2009

Like OPC, the FIPUG position statement appears to address actual fuel hedging costs, as opposed to the subject matter of this issue. The FIPUG witness did not address incremental hedging costs. The AG and FRF did not sponsor witnesses, although both assert positions that “agree with OPC” for this issue.

ANALYSIS

Forecast Updates:

FPL’s corrections to its original filing presented in Exhibit 358 were not challenged and appear to be reasonable. If the corrections are not accepted, FPL’s case would be based upon erroneous data.

This update results in a decrease to expense of \$52,000 and \$52,000 for the 2010 test year and the 2011 subsequent test year, respectively.

Incremental Hedging Cost recovery Method:

Staff believes Order No. PSC-05-1252-FOF-EI¹¹⁶ provides guidance for resolving Issue 126. As previously noted, this Order states that the settlement provision permitting IOUs to recover their prudently-incurred incremental hedging costs through the fuel clause remains in effect until new base rates become effective pursuant to Commission order

Although Order No. PSC-05-1252-FOF-EI¹¹⁷ refers to “new base rates” as a possible condition for terminating the settlement, staff believes the condition will be met when the Commission’s order in this proceeding is issued – new rates or not. In any event, staff believes that the incremental hedging costs are administrative costs and properly belong in base rates, not in fuel factors.

Staff notes that FPL’s 2010 fuel factors were calculated including the incremental hedging costs. However, these costs will be adjusted out of the Fuel Cost Recovery Clause as part of the true-up process in the 2010 fuel and purchased power cost recovery hearing.

Exhibit 180, MFR Schedule C, shows adjustments to increase jurisdictional expenses by \$702,000 and \$722,000 for the 2010 test year and the 2011 subsequent, respectively. This is a minor difference from witness Ousdahl’s testimony. (EXH 180, MFR Schedules C-2)

CONCLUSION

Staff recommends that the Company’s proposal to reduce incremental hedging costs due to its update in Exhibit 358 be accepted. Staff also recommends that the Company’s adjustment to transfer incremental hedging costs from the fuel clause to base rates be accepted.

¹¹⁶ Order No. PSC-05-1252-FOF-EI, issued December 23, 2005, in Docket No. 050001-EI, In Re: Fuel and purchased power cost recovery clause with generating performance incentive factor.

¹¹⁷ Id.

A. For the 2010 projected test year?

Staff recommends that expenses be increased by \$650,000 (\$702,000-\$52,000) for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that O&M expenses be increased by \$670,000 (\$722,000-\$52,000) for the 2011 subsequent test year.

Date: December 23, 2009

Issue 127: Should the Commission adjustment in FPL's 1985 base rate case, Docket No. 830465-EI, for imputed revenues associated with orange groves be reversed? (Category 2 Stipulation)

A. For the 2010 projected test year?

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

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

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

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

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

Recommendation: No.

A. For the 2010 projected test year, the appropriate amount is \$1,546,305,729.

B. If applicable, the appropriate amount for the 2011 subsequent projected test year is \$1,630,193,958. (Prestwood)

Position of the Parties

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.

OPC: No. The appropriate amount of O&M Expenses for each respective test year should be as follows:

A. 2010: \$1,508,754,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate 2011 amount is \$1,594,688,000.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: No.

Date: December 23, 2009

SFHHA: No. FPL's test year O&M expense should be reduced by \$397.648 million. This will reduce FPL's requested test year O&M expense to the \$1,306.953 million actual 2008 adjusted downward on a net basis to \$1,296.719 million for known and measurable changes.

Staff Analysis:

Forecast Updates:

FPL witness Ousdahl sponsored Exhibit 358 (KO-16) in her rebuttal testimony and explained that during the course of the proceeding, FPL identified appropriate adjustments to the Company's filing. Exhibit 358 (KO-16) summarizes the adjustments to Rate Base, Net Operating Income, and Capital Structure that FPL is proposing to its original filing. (TR 3708)

Item 2 of Exhibit 358 shows FPL's proposed adjustment due to the possibility that poor investment performance in 2008 might affect Nuclear Electric Insurance Limited's (NEIL) ability to make future distributions. FPL Witness Ousdahl testified that "In early 2009, when the 2008 performance became known, the Company should have revised its forecast to reflect the expectation of no distributions in 2010 and 2011 prior to filing its MFRs. This adjustment corrects that oversight." (TR 3715)

ANALYSIS

Forecast Updates:

Unlike most of the adjustments to the Company's filing shown in Exhibit 358, Item 2 is not a correction of an error but an update to one item of expense in the Company's entire forecast. This adjustment is based on a possible elimination of distributions based on information that became known to the Company in early 2009 after it had filed its case.

First, staff does not believe it is appropriate to update one item of expense in the Company's entire forecast without updating all items of revenue and expense.

Second, the Company has not had any communication with NEIL wherein it was communicated that there would definitely be no distributions in 2010 and future years. NEIL has made distribution for many years without interruption. (TR 3764-3768; SFHHA BR 13)

CONCLUSION

Staff recommends that the update shown on Item 2 of Exhibit 358 not be accepted. This is a fallout issue. Based on staff's recommendations, the appropriate level of O&M Expense is \$1,546,305,729 for the 2010 projected test year and, if applicable, \$1,630,193,958 for the 2011 subsequent projected test year. (See Schedules 3A and 3B)

Date: December 23, 2009

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

Recommendation: No. Staff recommends a reduction to the 2010 depreciation expense of \$435,000, and if applicable, a reduction to the 2011 subsequent test year depreciation expense of \$4,216,000. (Gardner, P. Lee)

Position of the Parties

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.

OPC: No. Depreciation of this system should commence upon the implementation date. As such, depreciation expense is overstated by \$0.5 million in 2010 and rate base is understated due to the accumulated depreciation in 2010 by \$0.2 million. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, depreciation expense should be reduced by \$4.9 million and rate base increased by \$2.3 million.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. It appears that FPL agrees with this position.

FRF: A. Yes. Agree with OPC. 2010: \$513,606,000.
B. Yes. Agree with OPC. 2011: \$570,447,000.

SFHHA: No. The new CIS is not scheduled to be completed and operational until June 2012. Depreciation should not commence until the asset is in-service. This has a revenue requirement effect of \$0.506 million.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL stated that it should not be permitted to collect depreciation expense for its new Customer Information System before its implementation date. FPL contended that the depreciation expense is overstated by \$0.4 million in 2010 and \$4.2 million in 2011. (FPL BR 136)

In the rebuttal testimony of FPL witness Ousdahl, she stated that there was a problem with the projection of plant in service and depreciation expense for the Customer Service Information (CIS III) replacement project. The error was not detected until the Company responded to SFHHA's Tenth Set of Interrogatories, question number 288. (EXH 35, BSP-1705-1716; TR 3714) She further stated that rate base was understated due to the accumulated depreciation in 2010 by \$2.0 million and in 2011 by \$2.3 million. Witness Ousdahl testified that the applicable adjustments and the revenue requirement impacts are shown in her Exhibit KO-16 Items 11 and 12. (TR 3714)

OPC

OPC stated that the depreciation of the customer information system should commence upon the implementation date. As such, depreciation expense is overstated by \$0.5 million in 2010 and rate base is understated by \$0.2 million due to the accumulated depreciation in 2010. OPC strenuously opposed the subsequent 2011 test year. If the 2011 test year is considered, depreciation expense should be reduced by \$4.9 million and rate base increased by \$2.3 million. (OPC BR 117) OPC stated that FPL agreed with the 2010 and 2011 adjustments to accumulated depreciation and depreciation expense as reflected in FPL's Exhibit 358 (KO-16 Item 11 and 12). (OPC BR 117)

Affirm, AIF, FEA, South Daytona, SCU-4, and Unger did not address this issue. The AG, FIPUG, and FRF agree with OPC's position.

SFHHA

SFHHA stated that the new CIS is not scheduled to be completed and operational until June 2012. Therefore, SFHHA concluded that depreciation should not commence until the asset is in-service. Also, SFHHA reiterated FPL witness Ousdahl's acknowledgement that FPL erred by including the CIS depreciation expense prior to implementation of the system. SFHHA further stated that the adjustment reflected in Exhibit KO-16 should be reflected in FPL's revenue requirement. (SFHHA BR 87)

ANALYSIS

Staff reviewed the adjustments in Exhibit 358 (KO-16, Item 11 and 12) that reflected the adjustments to correct the depreciation expense error for the CIS III replacement project. As reflected in Item 11 of Exhibit 358, the reductions to the 2010 and 2011 test years' depreciation expense should be \$435,000 and \$4,216,000, respectively. (EXH 358, KO-16 Item 11) Also,

Item 12 of Exhibit 358, reflects the impact of the CIS III error correction for accumulated depreciation and was discussed in Issue 51. Staff agrees with the parties.

CONCLUSION

In summary, staff recommends a reduction to the 2010 depreciation expense of \$435,000, and if applicable, a reduction to the 2011 subsequent test year depreciation expense of \$4,216,000, to reflect the correction for the CIS III system replacement project as set forth in FPL's EXH 358 and 477.

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

Recommendation: Yes. Staff recommends that depreciation expense be reduced for the 2010 projected test year based on the reductions to capital expenditures. If applicable, the 2011 subsequent test year depreciation expense should also be reduced based on reductions to capital expenditures. (Gardner, P. Lee)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No. AIF supports FPL position that its depreciation expenses, subject to FPL adjustments presented through out the rate proceedings are relate to clause recoverable projects that do not affected projected plant in service balances that comprise retail rate base.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. FIPUG agrees with OPC. Depreciation expense should be reduced consistent with the corresponding reductions to projected plant.

FRF: Yes.

SFHHA: Yes. The reduction in its capital expenditures necessarily will result in less depreciation expense. Therefore, depreciation expense should be reduced by \$26.883 million, which will reduce FPL's revenue requirement by \$26.719 million. See response to Issue 19C and Issue 50.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL stated that there should be no adjustments to FPL's projected depreciation expenses related to capital expenditure reductions, with the exception of the items listed on Exhibits 358 and 511. (FPL BR 125, EXH 358 and 511)

SFHHA stated that there should be an adjustment to FPL's projected depreciation expense related to capital expenditure reductions in the amount of \$26.883 million based on Issue 50. The reduction in its capital expenditures necessarily will result in less depreciation expense. (EXH 325, SFHHA BR 87)

ANALYSIS

Staff reviewed the depreciation expense adjustments for 2010 and 2011 as reflected in FPL's exhibits. (EXH 358 (KO-16) and 477) The capital expenditure reductions that correspond to Exhibit 358 (KO-16) are the DOE Settlement, customer information system, transmission services, and error corrections to Account 354. (EXH 358) The depreciation expense reductions for 2010 and 2011 as reflected in the exhibits, totaled \$14,936,000 and \$20,743,000, respectively. As discussed in Issue 50, capital expenditure reductions were provided for aviation costs and deferred or delayed projects with the corresponding depreciation expense for 2010 and 2011 test year in the amount of \$2,303,009 and \$2,900,834, respectively. The total depreciation expense reductions for 2010 and 2011 test years are \$17,239,009 and \$23,643,834. (EXH 358, 418, and 511) Also, in Issue 50, SFHHA proposed an annualized adjustment for 2010 and 2011 plant in service in the amount of \$784 and \$523 million, respectively. The corresponding reduction in depreciation expense was \$26.883 which was calculated using a composite depreciation rate. (EXH 325)

The reductions for depreciation expense, as addressed in this issue, are included in Table 131-1 of Issue 131. Also, Issue 131 is a fall-out issue that reflects the depreciation expense adjustments made in other issues for all capital expenditures. Staff believes that the depreciation expense reductions for all capital expenditures presented in the record has been addressed.

CONCLUSION

Staff recommends that depreciation expense be reduced for the 2010 projected test year based on the reductions to capital expenditures. If applicable, the 2011 subsequent test year depreciation expense should also be reduced based on reductions to capital expenditures.

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?

Recommendation: Yes. Staff recommended adjustments to reduce depreciation expense are shown in A and B. (Gardner, P. Lee)

A. For the 2010 projected test year, staff recommends a total reduction to depreciation expense of \$240,233,441, which results in an adjusted depreciation expense of \$834,031,559.

B. If applicable for the 2011 subsequent test year, staff recommends a total reduction to depreciation expense of \$238,277,441, which results in an adjusted depreciation expense of \$900,683,559.

Position of the Parties

FPL: No adjustments are necessary to depreciation expense as filed except for items impacting depreciation that are listed on Exhibits 358, 481 and 511.

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).

OPC: No. The appropriate amount of depreciation expense for each respective test year should be as follows:

A. 2010: \$513,606,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$570,447,000.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: No. AIF supports FPL position that depreciation expenses are appropriate as submitted and no adjustments other than those presented in FPL Exhibit KO-16 should be made.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. See FIPUG's positions on Issues 19A-19F.

FRF: Yes. Agree with OPC.

SFHHA: Yes. See SFHHA's response to Issues 19C and 19E.

Date: December 23, 2009

Staff Analysis: This is a fall-out issue. As shown below in Table 131-1 and Table 131-2, staff identified all of the adjustments to depreciation expense as provided in the record. Each adjustment for depreciation expense corresponds to recommended adjustments provided in the following issues: Issues 15 (jurisdictional separation), Issue 19A through 19F (depreciation study, capital recovery schedules, and reserve surplus), Issue 42 (fossil dismantlement study), Issue 50 (plant in service), Issue 94 (aviation costs), Issue 129 (customer information system-CIS3), and correction of errors by the Company. In addition, based on the results of Issues 19C and 19D, staff developed the composite depreciation rates that were used for the 2010 and 2011 test year depreciation expense calculation.

TABLE 131-1			
2010 Adjustments to Depreciation Expense			
Description	FPL	OPC	Staff
Issue 15 SLB-26 Revised-Jurisdictional Separation Factor-Transmission Services			
Issue 108: EXH 358-Item 4-DOE Settlement	(\$747,000)	0	(\$747,000)
Issue 129: EXH 358-Item 12 CIS III	(\$435,000)	0	(\$435,000)
EXH 358 Issue 16 Account 354 correction	(\$3,419,000)		(\$3,419,000)
Issue 15: EXH 358-Item 21-Transmission Services-jurisdictional factor	(\$10,335,000)	0	(\$10,335,000)
Issue 50: EXH 418-Deferred Projects	0	0	(\$211,000)
Issue 94: Aviation Costs	(\$2,092,009)	0	(\$2,092,009)
Issue 19C and 19D: Depreciation Study	0		(\$82,735,000)
Issue 19E and 19F: Allocation of Reserve Surplus			(\$142,900,000)
Issue 121: Fossil Dismantlement Study			\$2,640,568
Total Proposed Reductions	(\$17,028,009)	(\$560,659,000)	(\$240,233,441)

TABLE 131-2			
2011 Adjustments to Depreciation Expense			
Description	FPL	OPC	Staff
Issue 15 SLB-26 Revised-Jurisdictional Separation Factor-Transmission Services		\$	
EXH 358-Issue 4-DOE Settlement	(\$1,542,000)	0	(\$1,542,000)
EXH 358-Issue 12 CIS III	(\$4,216,000)	0	(\$4,216,000)
EXH 358-Item 16-Acct 354 correction	(\$3,611,000)		(\$3,611,000)
EXH 358-Item 21-Transmission Services-jurisdictional factor	(\$11,374,000)	0	(\$11,374,000)
EXH 418-Deferred Projects	0	0	(\$443,000)
Issue 94-Aviation Costs	(\$2,457,834)	0	(\$2,457,834)
Issue 19C and 19D: Depreciation Study	0		(\$101,124,000)
Issue 19E and 19F: Allocation of Reserve Surplus			(\$142,900,000)
Issue 14: WCEC3- No GBRA			\$26,749,000
Issue 121: Fossil Dismantlement Study			\$2,641,393
Total Proposed Reductions	(\$23,200,834)	(\$568,514,000)	(\$238,277,441)

CONCLUSION

In summary, based on the adjustments reflected in Table 131-1 and Table 131-2 above, staff recommends that the appropriate adjustment to depreciation expense for 2010 should be a reduction of \$240,233,441. If applicable, the appropriate adjustment to the 2011 subsequent test year is a reduction of \$238,277,441. Accordingly, the effect of the adjustments for the 2010 and 2011 test years is a depreciation expense of \$834,031,559 and \$900,683,559, respectively.

Date: December 23, 2009

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?

Recommendation: Yes. Staff recommends that the Company's proposed adjustment to Taxes Other Than Income Taxes be accepted. (Prestwood)

A. For the 2010 projected test year?

Staff recommends that jurisdictional Taxes Other Than Income Taxes be increased by \$972,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that jurisdictional Taxes Other Than Income Taxes be increased by \$971,000 for the 2011 subsequent test year. (Prestwood)

Position of the Parties

FPL: No. Subject to the adjustments listed on Exhibit 358, the 2010 and 2011 projections of Taxes Other Than Income Taxes are appropriate.

OPC: Yes. The appropriate amount of Taxes Other Than Income Taxes for the respective test years is as follows:

A. 2010: \$350,217,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$392,887,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Agree with OPC.

SFHHA: Yes. Payroll taxes should be reduced according to the SFHHA recommendations to reduce labor expense for productivity improvements and to eliminate the company's proposed

Date: December 23, 2009

increase in labor expense for the addition of 270 nuclear positions. See responses to Issues 101 and 102.

Staff Analysis:

PARTIES' ARGUMENTS

Forecast Updates:

FPL witness Ousdahl sponsored Exhibit 358 (KO-16) in her rebuttal testimony and explained that during the course of the proceeding FPL identified appropriate adjustments to the Company's filing. Exhibit 358 (KO-16) summarizes the adjustments to Rate Base, Net Operating Income, and Capital Structure that FPL is proposing to its original filing. (TR 3708)

Item 9 of Exhibit 358, shows FPL's proposed adjustment to reflect an increase in state unemployment tax rates that were inadvertently excluded from the Company's MFRs. This adjustment increases jurisdictional Taxes Other Than Income Taxes by \$972,000 for 2010 and \$971,000 for 2011.

No other party presented testimony on this issue.

ANALYSIS

Forecast Updates:

FPL's corrections to its original filing presented in Exhibit 358 were not challenged and appear to be reasonable. If the corrections are not accepted, FPL's case would be based upon erroneous data.

CONCLUSION

Staff recommends that the Company's proposed adjustment to Taxes Other Than Income Taxes be accepted.

A. For the 2010 projected test year?

Staff recommends that jurisdictional Taxes Other Than Income Taxes be increased by \$972,000 for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends that jurisdictional Taxes Other Than Income Taxes be increased by \$971,000 for the 2011 subsequent test year.

Based on staff's recommendations in other issues, Taxes Other Than Income have been decreased by \$5,081,947 for 2010 and \$6,474,065 for 2011. This results in adjusted totals for Taxes Other Than Income of \$345,288,053 for 2010 and \$386,567,935. (See Schedules 3A and 3B)

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?

Recommendation: No. Any grant money received from the Department of Energy for the Smart Grid Investment Grant should be used as a Contribution in Aid of Construction. The money should be used for incremental projects and should not be used to offset projects in rate base. FPL should not be able to earn a return on the investment made using the grant money. The tax adjustment proposed by FPL will be addressed by staff in Issue 64. (Clemence)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

CSD: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC. It is FIPUG's understanding that FPL has agreed to make the appropriate adjustment.

FRF: Yes. Agree with OPC.

SFHHA: Yes. A \$20 million subsidy is available pursuant to the act for advanced meters and smart grid investment, which should be reflected in FPL's revenue requirement. In addition, there may be other benefits resulting from the stimulus bill that FPL should record as a regulatory liability. At a minimum, the Commission should reflect a \$20 million grant available to FPL to reduce the costs of advanced meters and other smart grid investment.

Staff Analysis:

PARTIES' ARGUMENTS

FPL argued that an adjustment should not be made for any grant money received from the DOE for smart grid implementation. (FPL BR 99) The grant money will be used to invest in new projects, not projects that are currently in rate base. (FPL BR 99) FPL also stated that an adjustment for the amount of bonus depreciation that will be deductible for 2009 should be made to the capital structure. (FPL BR 137)

FIPUG argued that an adjustment needs to be made and that they agree with OPC. (FIPUG BR 45) FIPUG also acknowledges the adjustment that FPL has agreed to make.

FRF argued that an adjustment needs to be made and that they agree with OPC. (FRF BR 101) FRF did not propose a specific adjustment.

SFHHA stated that the receipt of the grant for Smart Grid will allow FPL to realize extra savings and therefore, the Commission should reduce rate base by \$20 million. (SFHHA BR 89-90) SFHHA also argued that the stimulus act has allowed FPL to accumulate an additional \$884 million dollars in tax benefits. (SFHHA BR 88) The accumulated tax benefit is being addressed in Issue 64.

ANALYSIS

The FPL proposed adjustment for bonus depreciation will be addressed in Issue 64.

On August 6, 2009, FPL submitted a grant application to the Department of Energy for the Smart Grid Investment Grant. (EXH 35 BSP 433-434) The maximum award for the grant was \$200 million. (EXH 35 # 182) As of the end of the Hearing, FPL had not received a response on its DOE Smart Grid Investment Grant application. (TR 6198)

FPL witness Santos testified that the grant is used for incremental projects. (TR 1648) Witness Santos testified that the DOE was looking for new projects that would stimulate the economy. (TR 1651) Witness Santos testified that FPL will likely begin to receive the grant money during the 2010-2011 timeframe. (TR 1647) FPL asserted it will use the grant money on projects it had not planned on doing in the areas of transmission, distribution, and home area networks. (TR 1648) The grant will also allow FPL to install smart meters in the industrial class, which is not something that was a part of FPL's original rate forecast. Witness Santos testified that the grant money, when received, would be applied like a contribution in aid of construction. (TR 1673) The money would reduce the future plant in service balance. (TR 1673) Staff believes that the investments will be in incremental projects. Since the grant receipts will be recorded as a contribution in aid of construction, the company will not be able to earn a return on the money now, or in the future. This will allow FPL to install smart meters on facilities not previously planned and will afford the customer greater information about their energy usage.

SFHHA witness Kollen testified that the revenue requirement should be reduced by at least \$20 million. (TR 3165) The witness further testified that the grants and other savings associated with the receipt of the grant should be used to reduce the revenue requirement. (TR 3164) Witness Kollen testified that the Company should defer the amount of the grant and the

Date: December 23, 2009

associated depreciation and use the grant money, when received, to reduce the account by the amount of the grant. (TR 3165) Staff believes that the Company should handle the receipt of any grant money in a way that will not provide them a return. Staff does not believe that a reduction due to a grant receipt is appropriate.

CONCLUSION

The Smart Grid Investment Grant will allow FPL to accelerate investment in smart grid technology. The investment is in incremental projects and not projects that are being recovered through rate base. Since FPL proposes to use the grant like a CIAC contribution, it will not receive any return now, or in the future, on any money received from the grant. Customers will receive the benefits of having smart meters and a smarter infrastructure, affording them more information on their usage. As discussed in issues 47 and 95, implementation of smart grid technology will have significant cost savings to FPL customers. In recognition of the cost savings that will be realized by FPL, staff recommends that FPL bring the commission a program to help customers use AMI to reduce energy consumption. Staff recommends no adjustments be made to the 2010 test year, and if applicable, the 2011 subsequent projected test year.

Date: December 23, 2009

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?

Recommendation: Yes.

A. For the 2010 projected test year, Income Tax expense should be increased by \$150,360,152 resulting in a total income tax expense of \$393,698,152.

B. If applicable, for the 2011 subsequent projected test year, Income Tax expense should be increased by \$147,976,388 resulting in a total income tax expense of \$318,989,388. (Prestwood, Springer)

Position of the Parties

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).

OPC: Yes. Adjustments are appropriate to income taxes as a result of OPC's recommended adjustments to rate base, capital structure and operating income. The appropriate amounts for income taxes per year are as follows:

A. 2010: \$545,476,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$476,151,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes. Agree with OPC.

FRF: Yes. Agree with OPC as to amounts.

SFHHA: Yes. Income tax expense should be adjusted for the effects of all other SFHHA recommendations.

Staff Analysis:

PARTIES' ARGUMENTS

FPL originally proposed an Income Tax expense of \$243,338,000 for the 2010 projected test year and \$171,013,000 for the subsequent projected 2011 test year. (EXH 180, MFR Schedule C-2 p. 4) However, due to a number of subsequent adjustments, FPL proposed an updated 2010 jurisdictional projected Income Tax expense of \$248,680,000, and an updated 2011 jurisdictional projected Income Tax expense of \$180,545,000. (FPL BR 138) FPL asserted that after accounting for the adjustments in Exhibits 358, 481 and 511, and 514, the projected income tax expenses for 2010 and 2011 are appropriate. (FPL BR 138)

OPC contended that adjustments are appropriate to income taxes as a result of OPC's recommended adjustments to rate base, capital structure and operating income. (OPC BR 117) SFHHA maintained that income tax expense should be adjusted for the effects of all other SFHHA recommendations. (SFHHA BR 90)

AG, FIPUG, and FRF adopted OPC's position on this issue. (AG BR 20; FIPUG BR 45; FRF BR 101) Affirm, AIF, South Daytona, and FEA took no position on this issue. (AIF BR 45)

ANALYSIS

The Income Tax expense is a result of other adjustments made by the Commission. Based on staff's recommendations, the requested total income tax expense of \$243,338,000 should be increased by \$150,360,152 resulting in an adjusted total Income Tax expense of \$393,698,152.

2010 Amount Requested	\$243,338,000
Staff Adjustments:	<u>150,360,152</u>
Total Income Tax Expense	<u>\$393,698,152</u>

The Income Tax expense is a result of other adjustments made by the Commission. Based on staff's recommendations, the requested total income tax expense of \$171,013,000 in the 2011 subsequent projected test year should be increased by \$147,976,388 resulting in an adjusted total Income Tax expense of \$318,989,388.

2011 Amount Requested	\$171,013,000
Staff Adjustments:	<u>147,976,388</u>
Total Income Tax Expense	<u>\$318,989,388</u>

CONCLUSION

This is a fall out issue based on the outcome of other adjustments made in this case. Reductions to expenses made by the Commission will increase the Income Tax expense based on the *statutory income tax rate* of 38.575 percent. The Income Tax expense for the 2010 test year should be \$393,698,152. If applicable, the Income Tax expense for the subsequent projected 2011 test year should be \$318,989,388. (See Schedules 3A and 3B)

Issue 135: Is FPL's projected Net Operating Income appropriate?

A. For the 2010 projected 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?

Recommendation: No.

A. For the 2010 projected year, the appropriate net operating income is \$953,650,654.

B. If applicable, the appropriate net operating income is \$896,469,844 for the 2011 subsequent projected test year. (Prestwood)

Position of the Parties

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.

OPC: No. The appropriate net operating income is as follows:

A. 2010: \$1,202,417,000.

B. OPC strenuously opposes the subsequent 2011 test year. If the 2011 test year is considered, the appropriate amount is \$1,138,864,000.

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC.

FRF: Agree with OPC.

SFHHA: No. The company's proposed Operating Income is understated by the net effect of the revenue and operating expense issues identified by SFHHA, including the effects on income tax expense due to the rate base and capitalization issues identified by SFHHA.

Staff Analysis: This is a fallout issue. Based on staff's recommendations, the appropriate Net Operating Income is \$953,650,654 for the 2010 projected test year and, if applicable, \$896,469,844 for the 2011 subsequent projected test year. (See Schedules 3A and 3B)

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?

Recommendation: The appropriate revenue expansion factors and the appropriate net operating income multipliers are:

A. 61.195 percent and 1.63411, respectively, for the 2010 projected test year. The appropriate elements and rates are shown on Schedule 4A.

B. If applicable, 61.245 percent and 1.63279, respectively, for the 2011 subsequent projected test year. The appropriate elements and rates are shown on Schedule 4B. (Prestwood)

Position of the Parties

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.

OPC: The appropriate NOI multiplier for the 2010 test year is shown below. OPC strenuously opposes the subsequent 2011 test year. If considered, the 2011 amounts are also shown.

<u>OPC Recommended</u>	<u>2010</u>	<u>2011</u>
Revenue Requirement	100.0000%	100.0000%
Regulatory Assessment Rate	0.0720%	0.0720%
Bad Debt Rate	0.1930%	0.150%
Additional Late Payments	-0.0866%	-0.0866%
Net before Income Taxes	99.82158%	99.8649%
State Income Taxes	5.4902%	5.49257%
Federal Income Taxes	33.0160%	33.03032%
Revenue Requirement	<u>66.3154%</u>	<u>61.3420%</u>
NOI Multiplier	<u>1.630911</u>	<u>1.63020</u>

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: AIF supports FPL position that the appropriate revenue expansion factors are 1.63342 for 2010 and 1.63256 for 2011. The appropriate net operating income multipliers with proper elements and rates are presented on Exhibit KO-16 and MFR C-44.

SOUTH DAYTONA: No position.

FEA: No position.

Date: December 23, 2009

FIPUG: Agree with OPC.

FRF: Agree with OPC. Please note that the FRF opposes granting any subsequent year adjustment in this case, and that where the FRF takes specific positions on issues for 2011, it does so only in order to preserve its rights in the event that the Commission does decide to consider granting additional rate increases in 2011.

SFHHA: No position.

Staff Analysis: Staff agrees with FPL's bad debt rate adjustments in Exhibit 358 (KO-16). These adjustments increase the bad debt rate from 0.260 percent to 0.302 percent for 2010 and from 0.207 percent to 0.221 percent for 2011. Staff agrees with the Company's calculations and recommends that the appropriate revenue expansion factors and the appropriate net operating income multipliers are 61.195 percent and 1.63411, respectively, for the 2010 projected test year and 61.245 percent and 1.63279, respectively, for the 2011 subsequent projected test year. The appropriate elements and rates are shown on Schedules 4A and 4B.

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?

Recommendation: No.

A. For the 2010 projected test year, the appropriate annual operating revenue increase is \$357,284,393.

B. If applicable, the appropriate annual operating revenue increase is \$310,771,811 for the 2011 subsequent projected test year. (Prestwood)

Position of the Parties

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.

OPC: No. not only is no revenue increase warranted, base rate revenues should be decreased as shown below. OPC strenuously opposes the subsequent 2011 test year. If considered, the 2011 amounts are also show.

<u>OPC Recommended</u>	<u>2010</u>	<u>2011</u>
Revenue Reduction at Proposed Return	(\$1,298,043)	(\$1,281,546)
Less Increase in Miscellaneous Service Fees	<u>\$25,024</u>	<u>\$26,035</u>
Revenue Reduction for Sales Revenues	<u>(\$1,323,067)</u>	<u>(\$1,307,581)</u>

AFFIRM: No position.

AG: Adopt OPC's position.

AIF: Yes. AIF supports FPL positions that the revenue increases presented, subject to adjustments on Exhibit KO-16 are appropriate and should be allowed.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No increase is warranted and rates should be decreased as recommended by OPC.

FRF: No. Agree with OPC that FPL's base rates should be decreased to produce the operating revenues supported by OPC's witnesses.

SFHHA: No. Rather than increasing FPL's annual operating revenues, the Commission should reduce those revenues by \$354.862 million.

Staff Analysis: This is a fallout issue. Based on staff's recommendations, the appropriate annual operating revenue increases are \$357,284,393 for the 2010 projected test year and, if applicable, \$310,771,811 for the 2011 subsequent projected test year. (See Schedules 5A and 5B) The following schedules show the calculation of the 2010 and 2011 operating revenue increases.

Calculation of Annual Operating Revenue Increase December 31, 2010 Test Year		
	FPL	STAFF
Rate Base (Issue 63)	\$17,063,586,000	\$16,747,031,918
Rate of Return (Issue 81)	x 8.00%	x 7.00%
Required NOI	\$1,364,748,000	\$1,172,292,234
Adjusted Achieved NOI (Issue 135)	(725,883,000)	(953,650,654)
NOI Deficiency	\$638,865,000	\$218,641,581
Revenue Expansion Factor (Issue 136)	x 1.63342	x 1.63411
Total 2010 Operating Revenue Increase	\$1,043,535,000	\$357,284,393

Calculation of Annual Operating Revenue Increase December 31, 2011 Test Year		
	FPL	STAFF
Rate Base (Issue 63)	\$17,880,402,000	\$18,228,936,900
Rate of Return (Issue 81)	x 8.18%	x 7.18%
Required NOI	\$1,462,895,000	\$1,308,837,669
Adjusted Achieved NOI (Issue 135)	(662,776,000)	(896,469,844)
NOI Deficiency	\$800,119,000	\$412,367,826
Revenue Expansion Factor (Issue 136)	x 1.63256	x 1.63279
Operating Revenue Increase	\$1,306,243,000	\$673,308,285
2010 Operating Revenue Increase - Adjusted for 1.47% 2011 Growth Factor	(1,058,867,000)	(362,536,474)
2011 Operating Revenue Increase	\$247,367,000	\$310,771,811

For the 2011 test year, FPL excluded the WCEC Unit 3 from the 2011 revenue requirements and requested recovery through the proposed GBRA mechanism. Because staff is recommending that the GBRA mechanism not be authorized, staff has included the WCEC Unit 3 in rate base and NOI for June through December, 2011.

Docket Nos. 080677-EI, 090130-EI
Date: December 23, 2009

Issue 138: Intentionally Blank

COST OF SERVICE AND RATE DESIGN

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?

Recommendation:

A. Yes. Subject to the adjustments listed in Exhibit 358, FPL has correctly calculated its revenues at current rates for the 2010 projected test year. (A. Roberts)

B. Yes, if applicable, the 2011 subsequent year adjustment revenues were calculated correctly, subject to the adjustments listed in Exhibit 358. (A. Roberts)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No. Adopt OPC's position.

AIF: Yes. AIF supports FPL position that calculated revenues are correct as presented by FPL.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. See FIPUG's position on Issues 3-7.

FRF: A. No. Agree with OPC.

B. The Commission should not grant a subsequent year adjustment for 2011. If the Commission does grant a subsequent year adjustment for 2011, it should make the revenue adjustments supported by OPC's witnesses.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

The calculation of revenue at current rates is a product of the projected billing determinants times current rates. Any change in the projected billing determinants will change the total revenues at current rates. FPL argued that its forecast is appropriate and therefore the projected revenue at current rates is also correct. (FPL BR 102) 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. (EXH 180, MFR E-13a for 2010 and 2011 test year). FPL stated in its brief that it has correctly calculated the 2010 and 2011 revenues at current rates subject to the adjustments listed in Exhibit 358. (FPL BR 139)

FIPUG

FIPUG disagrees with FPL's calculations and refers to its position on Issues 3 through 7. (FIPUG BR 45-46)

ANALYSIS

FPL's position is that, subject to adjustments listed on Exhibit 358, the company 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 includes the GBRA increases for West County Units 1 and 2.

FIPUG does not believe FPL has correctly calculated its revenues at current rates, and refers to its position in Issues 3-7. (FIPUG BR 45-46) Issues 3 deals with FPL's forecast of customers, kWh and KW for 2010. OPC has proposed adjustments to these forecasts which FIPUG adopted. (OPC BR 11-13) Issues 4-7 deal with the appropriateness of setting rates using a 2011 subsequent year test year. FIPUG did not believe it is appropriate for the Commission to approve rates using a subsequent 2011 test year in this case. (TR 2963) Any changes in the billing determinants will impact the projected revenues at current rates. No other party has taken a position on this issue.

In Issue 3, staff is recommending that FPL's forecast of billing determinants is appropriate. As a result, staff believes that FPL has properly calculated the projected revenues at current rates for the 2010 test year as well as for the 2011 test year, if applicable.

CONCLUSION

Staff believes FPL has correctly calculated it's revenue at current rates for 2010, and if applicable, the 2011 test year, subject to the adjustments listed in Exhibit 358. If the Commission approves a revision to FPL's forecast of billing determinants, the revenue at current rates will have to be recalculated.

Date: December 23, 2009

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?

Recommendation: No. The minimum distribution system classification proposed by SFHHA should be rejected. Distribution costs should continue to be allocated to rate classes using the methodology proposed by FPL. (Kummer)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: This is a reasonable method to use for distribution costs. Some portion of the distribution network is a customer-related component because a utility must invest in facilities to connect a customer to the grid, irrespective of the amount of electricity the customer uses. Recognizing a customer component of certain distribution plant costs is cited in the NARUC *Electric Utility Cost Allocation Manual*, which should be recognized in setting rates.

FRF: No position.

SFHHA: Yes. Each of the two approaches is designed to measure a "zero load cost" associated with serving customers. For instance, the conceptual basis for the zero-intercept method is that it reflects a classification of the distribution facilities that would be required to simply interconnect a customer to the system, irrespective of the kW load of the customer. Certain distribution costs are incurred due to the presence of a customer on the system, regardless of the demand of such a customer. The MDS methodology recognizes this cost responsibility in the classification and allocation of distribution facilities and expenses to rate classes. A demand related classification of distribution costs overstates the cost responsibility of large general rate schedules.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL witness Ender states in his rebuttal testimony that the MDS system presumes a type of electric system and a method of planning that does not reflect how FPL designs its distribution system. (TR 4074) He asserted that the zero or minimum load requirements of customers is purely fictitious because no utility builds to serve zero load. (TR 4076) Witness Ender further states that the MDS approach shifts all benefits obtained from economies of scale to large customers, even though there are similar economies of scale in serving residential load. For example, the diversity of load inherent in residential use allows the addition of new customers without the need for new poles or transformers. No such diversity is applicable to commercial customers who require a single pole and transformer. (TR 4076) Witness Ender also contends that the MDS methodology double counts the kW load for smaller customers because residential and small commercial load would first be assigned the assumed minimum distribution costs, and would then be assigned additional costs based on their non-coincident Peak (NCP) demand with no adjustment for the costs already assigned under the MDS. (TR 4077) FPL also states in its Brief that use of the MDS methodology would drastically increase the amount of distribution plant costs allocated to residential and very small commercial customers. (FPL BR 139)

FIPUG

FIPUG sponsored no testimony on this issue, but did address this issue in its brief. There FIPUG argued that MDS is a reasonable method to us for distribution costs because some proportion of distribution facilities is used to "connect the customer to the grid, irrespective of the amount of electricity used." (FIPUG BR 46)

SFHHA

Witness Baron agrees that FPL has followed historical Commission practice in defining only the service drop, meter and customer service portion of distribution costs as "customer" related. Specifically, he notes that FPL has classified all costs in Account 364, Poles, Towers and Fixtures as demand related and allocated to rate schedules on the basis of rate class NCP demand. (TR 1715) Witness Baron argues that this proposed classification results in too little of the distribution facilities costs, such as poles and transformers, being allocated to the residential and small commercial classes. This leads to commercial and industrial customers paying too much for facilities which do not benefit them. Witness Baron proposes to classify more of the distribution costs as customer-related, by establishing a Minimum Distribution System (MDS) construct. (TR 1712-14)

Witness Baron relies on a discussion in the National Association of Regulatory Utility Commissioners Cost of Service Manual (Cost Manual) for classifying distribution costs to support the use of the MDS for FPL. (TR 1712) He notes that the MDS is the only classification methodology in the Cost Manual for distribution facilities, while several methodologies are discussed for the allocation of production and transmission plant. (TR 1713-14) In his testimony, witness Baron cites to a discussion in the Cost Manual of two approaches to

determine the customer component of distribution costs. Both approaches require development of an estimate of "the component of distribution plant cost that is incurred by a utility to effectively interconnect a customer to the system, as opposed to providing a specific level of power (KW demand) to the customer." (TR 1714) He notes that the MDS approach is particularly justified in the current environment because of the number of vacant residential dwellings that have little or no demand and therefore are not allocated any distribution costs using a non-coincident peak demand (NCP) allocator. (TR 1747, 1757) Witness Baron stated that the primary reason for adopting the MDS classification approach is that it recognizes, to some extent, there is a minimum cost to interconnect a customer to the system and that accordingly, it is appropriate to allocate costs associated with primary and secondary lines and transformers on a customer basis as opposed to a demand basis. (TR 1772)

ANALYSIS

The issue of the classification of distribution costs was raised by SFHHA witness Baron. Only the intervenors FIPUG and SFHHA took a position on this issue. Distribution costs are composed of both demand and customer related costs. Distribution demand related costs are allocated to classes based on the class's non-coincident peak demand (NCP) and customer related costs are allocated on the basis of number of customers. How distribution costs are classified between demand and energy can impact how costs are allocated and how much distribution cost is recovered from each class.

Witness Baron relies on the presence of the description of the MDS methodology in the Cost Manual as supporting the use of the methodology. (SFHHA BR 92-93) Witness Baron agreed that the Cost Manual describes the MDS methodology but does not advocate for any methodology described. The Cost Manual is a description of methodologies that are commonly used in the electric utility industry to allocate costs. (TR 1760)

The Commission has consistently rejected the MDS methodology on numerous occasions in the past. The most recent discussion on MDS took place in the 2001 Gulf Power Company rate proceeding. In that docket, the Commission found that:

[Gulf Witness] Mr. O'Sheasy describes MDS as identifying the costs of the facilities needed to simply hook-up a customer to the power system. Yet, distribution lines must be connected to subtransmission and transmission lines and ultimately to the busbar at the power plant in order to be able to deliver a single kWh. To artificially separate distribution accounts on the basis that these facilities are necessary to make service available ignores the way the electric system works. MDS is internally inconsistent in that it separates out distribution facilities for different treatment than transmission lines. As cited in the order in Gulf's last rate case:

There is a fundamental flaw in this proposal in that only part of the distribution system is classified as customer-related. None of the subtransmission and transmission system would be classified as customer-related. Hence, customers served at primary voltage through dedicated substations, and customer served at higher voltages would not pay for any of this network path.

We believe this minimum distribution system approach should be rejected because it is inequitable and inconsistent to apply the concept to only those customers served at secondary voltage or at primary voltage through common substations when the network path must be there to serve each and every customer.

In our opinion distribution facilities that function as service drops or dedicated tap lines should be directly assigned the classes whose members the facilities serve. No distribution costs other than service drops and meters should be classified as customer related.¹¹⁸

In FPL's 1981 rate case the Commission found:

The Company and the Commission Staff have proposed the use of a theoretical minimum distribution system as part of the customer charge. We believe the appropriate customer charge should be based only upon the cost of the meter, service drop, meter reading and basic customer service costs.¹¹⁹

The Commission affirmed that position in FPL's 1982 rate case and again in Tampa Electric's 1982 rate case. The FPL order states:

FIPUG contended that the concept of the minimum distribution system should be recognized in a cost of service study. However, in recent rate cases, we have not approved use of the minimum distribution system in classifying costs and no evidence was presented in this case to persuade us to depart from this policy.¹²⁰

The 1982 Tampa Electric Company order states:

In designing rates we have selected the Staff Requested Cost of Service Study (Exhibit 22-D) using the 12 CP and weighted one thirteenth average demand allocation methodology. The major philosophical differences between the Staff Requested Study and the Company's 12 CP and average cost of service study are that the Staff Requested study does not recognize the concept of the minimum distribution system, allocates the uncollectible expense to all customer classes on the basis of revenues and classifies conservation costs as energy rather than customer related. The Staff's treatment of all three of these items is correct.¹²¹

¹¹⁸ Order No. PSC-02-0787-FOF-EI, issued June 10, 2002, in Docket No. 010949-EI, In re: Request for Rate Increase by Gulf Power Company, p. 64.

¹¹⁹ Order No. 10306, issued September 23, 1981, in Docket No. 810002-EU, In re: Petition of Florida Power & Light Company for authority to increase its rates and charges, p. 43.

¹²⁰ Order No. 11437, issued December 22, 1982, in Docket No. 820097-EU, In re: Petition of Florida Power and Light Company to increase its rates and charges, p. 43.

¹²¹ Order No. 11307, issued November 10, 1982, in Docket No. 820007, In re: Petition of Tampa Electric Company for an increase in rates and charges, p. 36.

Date: December 23, 2009

The MDS methodology was again addressed in Florida Power Corporation's (PEF) 1982 rate case:

FIPUG contended that the Commission should select a cost of service study for use in designing rates that recognized the concept of the minimum distribution system. In the last four electric utility rate cases, we have determined that only the meter and service drop portion of the distribution system are properly classified as customer related. The evidence presented by FIPUG has not persuaded us to change our minds. For this reason, we selected a Staff Requested cost of service study which does not recognize the minimum distribution system concept for use in this proceeding.¹²²

In Tampa Electric Company's 1980 rate case, the Commission noted that staff and the company had proposed a theoretical minimum distribution cost as part of the customer cost. The Commission found:

While we agree that sound regulatory practice should provide for a customer charge to defray otherwise fixed costs, as proposed by the Company and the staff, we do not agree that a theoretical cost of a minimum distribution system is appropriate... The installation of the distribution system is made in anticipation of a projected level of actual use. The system does not contain a basic theoretical minimum distribution system. Reliance on such a mechanism is speculative at best. Instead, we believe the appropriate customer charge should be based upon the cost of the meter, service drop, meter reading and basic customer services costs (not including uncollectibles).¹²³

In a Florida Power Corporation (now PEF) case in 1980, the Commission stated:

The company has proposed increases in the level of the customer charges in all rate classifications. As in previous cases (Orders 9599 and 9628), we feel that the distribution costs which should be included in the customer charges consist of those related to distribution from the pole to the customer's structure.¹²⁴

In addition, as pointed out by SFHHA witness Baron, the MDS methodology requires that assumptions be made, for each FERC account, on the minimum size of a particular component that would be required to serve customers without respect to the ultimate level of demand. (TR 1775, 4141) This is in contrast with the clear delineation the Commission has used in the past, not only for FPL but for all investor-owned electric utilities, of classifying only specified accounts as customer related. Witness Baron provided no objective criteria for determining which costs should be classified as customer related as opposed to demand related. Staff believes this additional level of interpretation or judgment is neither necessary nor prudent

¹²² Order No. 11628, issued February 17, 1983, in Docket No. 820100-EU, In re: Petition of Florida Power Corporation to increase its rates and charges, p.35-6.

¹²³ Order No. 9599, issued October 17, 1980, in Docket No. 800011-EU, In re: Petition of Tampa Electric Company for an increase in its rates and charges, p. 18

¹²⁴ Order No. 9864, issued March 11, 1981, in Docket No. 800119-EU, In re: Petition of Florida Power Corporation for authority to increase its rates and charges, p. 31.

to determine the appropriate classification of distribution plant to be divided between customer and demand related costs.

The Commission went on to state in Order No. PSC-02-0787-FOF-EI:

We find that the simpler, more straight forward approach of allocating only service drops and meters on a customer basis adequately captures the distribution investment that is solely required to extend service to a new customer. This methodology is clear, generally accepted, and requires no series of hypothetical cost and system design calculations that do not reflect how the actual system is designed...

For the reasons provided above, we find that the treatment of distribution costs shall remain consistent with our past decisions, and accordingly, only Accounts 369 and 370 shall be classified as customer related.¹²⁵

While the Commission has approved an MDS approach for a Rural Electric Cooperative, that order contains specific conditions inherent in the Cooperative's customer base that makes the use of MDS appropriate for that utility.¹²⁶ Witness Baron was unable to state conclusively that the conditions precedent to the Commission's decision in Docket No. 020357-EC were present in the FPL rate case. (TR 1760-1761) Therefore, staff believes relying on this order is inappropriate to justify using the MDS methodology for FPL.

To support his argument, witness Baron also provided a calculation showing the number of poles per customer by rate class, compared to the allocation of those costs using the NCP factor used by FPL. (TR 1716) Mr. Baron asserts that this shows the discrepancy between the use of poles and the way in which costs are allocated. (TR 1717) However, using this approach would show that any cost, expressed on a per customer basis, could be used to justify a greater cost allocation to residential customers, simply as a result of the ratio of residential customers to non-residential customers present on FPL's system. His analysis ignores that a single pole may serve multiple residential customers while large commercial and industrial customers will likely be served by only one pole, resulting in a smaller pole per customer number. Witness Baron's simplistic example of dividing total pole costs by unweighted number of customers does not present any useful data on the design or cost of facilities installed for different types of customers. For example, for allocating customer costs for metering and billing, the number of customers is weighted by the relative cost of meters and billing services, to recognize that larger commercial and industrial customers required more expensive meters and different customer services. (EXH 180, MFR Schedule E-10, page 2 of 10) Failing to recognize the cost differentials would inappropriately place too much cost on residential customers due simply to the size of the class.

Witness Baron also relied on five orders from other states to support the use of the MDS. (TR 1718) While he maintained that he had personal knowledge of the use of MDS by these five utilities (TR 1777), nothing in the orders provided (EXH 423) described the use of MDS or why

¹²⁵ Order No. PSC-02-0787-FOF-EI, p. 66

¹²⁶ Order No. PSC-02-1169-TRF-EC, issued August 9, 2002, in Docket No. 020357-EC, *In re: Petition for Modifications of Electric Rate Schedules by Choctawhatchee Electric Cooperative.*

the respective utility Commissions believed the MDS approach was appropriate. (TR 1777-1778) Staff does not believe the Commission should rely on unverified representations of conditions found in utilities in other states as a basis for making a decision for a Florida utility.

CONCLUSION

The Commission has a long history of limiting the costs which are allocated on a customer basis and recovered through the customer charge. As pointed out by FPL witness Ender, FPL plans and constructs its distribution system based on expected load, not customers served. (TR 4076) The number and size of poles and transformers is driven by the size of the load to be served, whether for commercial or residential. In addition, the MDS requires value judgments to be made on an account by account basis for several FERC accounts in order to arrive at the distribution costs to be assigned on a customer basis. This introduces an unnecessary element of discretion and judgment into the cost allocation process. Witness Baron has not presented any convincing evidence on either the calculation of MDS costs, or the appropriateness of using the MDS approach, that justifies the Commission changing its policy.

Staff recommends that the Commission reject the proposed minimum distribution system to classify Account 364 costs on a customer basis. Distribution costs should continue to be allocated to rate classes using the methodology proposed by FPL.

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?

Recommendation: The appropriate cost of service methodology for production and transmission plant, including St. Lucie Unit 2, is the 12 Coincident Peak (CP) and 1/13 methodology. (Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The Commission should retain and continue to use the 12CP-1/13th average demand method. This is the methodology FPL has suggested.

FRF: No position.

SFHHA: FPL has proposed the use of the 12 CP and 1/13th average demand methodology to allocate base rates and cost recovery to FPL's rate classes. Although the Commission has required the use of that methodology in the past, it is clear that the facts do not support its continued use. The undisputed evidence (consisting in major part of the testimony of FPL's own witnesses) establishes that the continued use of that methodology would not align cost responsibility with cost causation. The undisputed evidence, including the testimony of FPL's own witnesses, also establishes that the continued use of 12 CP and 1/13th average demand methodology will send inaccurate price signals. In contrast, the evidence establishes that the summer CP Methodology proposed by SFHHA witness Baron properly will align cost causation with cost responsibility, will send accurate price signals and should be adopted due to the unique circumstances on FPL's system.

Staff Analysis:

PARTIES' ARGUMENTS

FPL asserted that its proposed 12 Coincident Peak (CP) and 1/13 cost of service methodology should be approved, because it results in a fair allocation of production and

transmission costs to the rate classes. (FPL BR 105; TR 4069) FPL witness Ender explained in his direct testimony that this methodology classifies 12/13th, or approximately 92 percent, of costs on the basis of coincident peak demand and 1/13th, or approximately 8 percent, of costs on the basis of energy. (TR 4055) That portion classified on demand is allocated to the individual rate classes based on their contribution to the average of the 12 coincident peaks, while the portion allocated on energy is allocated based on kilowatt-hour (kWh) sales. (TR 4055, 4120) CP is the peak demand that FPL experiences in an hour and FPL calculates the CP for each month of the year. (TR 4111-4112) Witness Ender testified that the 12 CP and 1/13 methodology has a significant history of regulatory acceptance in Florida. (TR 4056)

Witness Ender testified that in Docket No. 830465-EI, the Commission approved a special treatment for the St. Lucie Unit 2 nuclear generating unit. (TR 4056) At that time, St. Lucie Unit 2 had only recently been placed into service, and represented a substantial percentage of FPL's total production plant in that rate case. (TR 4056) Therefore, 25 percent of the unit was classified on the basis of demand, and 75 percent on the basis of energy. (TR 4056) Witness Ender stated that since the unit has been in service for approximately 25 years, the special exception should no longer apply and FPL's cost of service study used the 12 CP and 1/13 methodology for all production plant, including St. Lucie Unit 2. (TR 4056)

FIPUG took the position that the Commission should retain and continue to use the 12CP and 1/13th average demand method. FIPUG also stated that if the Commission decides to place more weight on average demand, or energy, a premise with which FIPUG disagrees, FIPUG recommends that the Commission adopt the Average and Excess (A&E) methodology. (FIPUG BR 48; TR 2980)

SFHHA opposed FPL's use of the 12 CP and 1/13th methodology to allocated production plant. (SFHHA BR 99) Instead, SFHHA Witness Baron recommended a method based on a summer CP methodology. (TR 1702) Witness Baron explained in his testimony that FPL's proposed methodology, which is primarily a 12 CP methodology, allocated production demand costs under the assumption that kW demand contributions to each of the 12 monthly coincident peaks have equal cost responsibility for the company's generating units. (TR 1704) Thus, for example, the 12 CP method presumes that a customer's incremental demand at the time of the August or January system coincident peak is no more costly to the system than the same amount of incremental demand at the time of the October or April FPL peak. (TR 1704-1705) Witness Baron concluded that FPL's method sends price signals to customers that adding demand during any of the monthly peaks throughout the year costs the same to FPL. (TR 1705)

To support his position, Witness Baron testified that the driving factor in the addition of new generating capacity on FPL's system is the peak demand during the summer months. (TR 1705) Witness Baron stated that a review of FPL's monthly reserve margins clearly demonstrates that it is customer demand during the peak summer months that is the primary cause of new capacity and associated cost. (TR 1705, 1785) Witness Baron concluded that the causer of the summer peak should bear more of the cost responsibility for capacity addition. (TR 1750)

ANALYSIS

The purpose of a cost of service study is to form a cost basis for establishing revenue requirements for each rate class. The cost of service is a matter of judgment, and there is no one correct cost allocation methodology. While the 12 CP and 1/13 methodology has been the dominant methodology in the past, the Commission has also approved different methodologies. Most recently, in the Tampa Electric Company rate case, the Commission approved the 12 CP and 25 percent energy methodology.¹²⁷ That method increased the proportion of production demand costs that are allocated on energy from eight percent to 25 percent. Other than the treatment of St. Lucie Unit 2, FPL has not proposed to changes its cost of service methodology. Witness Ender testified that FPL has made a judgment call and believes that the right methodology for this case is the 12 CP and 1/13 methodology because it is consistent with the manner in which FPL plans its generation system. (TR 4120)

Upon cross examination by the attorney for FIPUG, Witness Ender testified that given the long history of usage by this Commission of the 12 CP and 1/13 method, FPL is very comfortable with the use of this method for this case. (TR 4160) The 12 CP and 1/13 method recognizes that both energy and peak demand influence the type of generation unit that is added. (TR 4160) The method also recognizes that FPL must meet the peak demands for every month. (TR 4160)

SFHHA Witness Baron testified that a more reasonable cost of service study for FPL is a method based on a summer CP methodology. (TR 1702) Under the summer CP methodology, cost of production plant will be allocated among FPL's rate classes upon their contribution to the summer coincident peak. (TR 4111) The summer CP methodology is only taking one hour in the summer as the basis for allocating costs. (TR 4134)

SFHHA during a series of cross questions of witness Ender established that the coincident peaks in the months of June, July, August, and September are higher than the coincident peaks in any other months in 2005, 2006, 2007, and 2008. (TR 4115-4117) Witness Ender further agreed that the forecasted summer coincident peaks on FPL's system for 2009, 2010, and 2011 will be higher than the coincident peaks in any other months of the year. (TR 4118) However, witness Ender added that the summer coincident peaks are higher, but slightly so in some cases. (TR 4118)

FIPUG Witness Pollock testified while FPL is a summer peaking utility and experiences its tightest margins during the summer months, the 12 CP and 1/13 has been adopted by this Commission in past cases and it should not be replaced with another method that places greater emphasis on energy usage. (TR 2938) Witness Pollock continued that should the Commission decide to replace the 12 CP and 1/13 method, it should adopt the Average and Excess (A&E) method because it recognizes the dual functionality of generating plants. (TR 2938) Some plant is required for year-round operation, i.e., average demand, and the remaining plant is required for cycling, i.e., excess demand. (TR 2981) Under the A&E method 59 percent of production and transmission plant would be allocated on average demand. (TR 2980-2981, 4088) The remaining costs, or the excess demand component, would be allocated to rate classes based on

¹²⁷ Order No. PCS-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company.

the difference between the class maximum demand and their average demand. (TR 2981, 4088) Witness Ender rejected the A&E method by stating that class maximum demand is rarely coincident with the peak demand on the system and the use of this non-coincident demand to allocate production and transmission plant is inconsistent with FPL's generation plan. (TR 4088)

In his rebuttal testimony, witness Ender testified that the 12 CP and 1/3 methodology accurately reflects FPL's generation plan because it (1) it recognizes that the type of generation unit is influenced by both energy and peak demand; (2) it reflects the influence of the summer reserve margin; and (3) it recognizes that capacity must be available throughout the year to meet FPL's winter reserve margin and the annual loss-of-load probability criteria. (TR 4069)

Witness Ender further testified while the summer reserve margin criterion of 20 percent currently drives FPL's need for new resources, the Commission should reject SFHHA's proposed use of the summer CP methodology for the following reasons: (1) the summer CP method is inconsistent with FPL's generation planning process; (2) the summer CP allocation does not send a better price signal than the 12 CP and 1/13 methodology; and (3) the summer CP method would allocate no production costs to two rate classes even though all rate classes receive the benefit of FPL's generation capacity. (TR 4070) The two classes that would not get allocated any productions costs are the OL-1 (outdoor lighting) and SL-1 (street lighting) rate classes. (TR 4172) That is because generally in the summer the peak occurs during the daylight hours and the lights are not on, and therefore those classes make no contribution to production costs. (TR 4172) If no costs get allocated to the OL-1 and SL-1 rate classes, those costs get allocated to the other classes. (TR 4172-4173) Witness Ender further added that the reason the 12 CP and 1/13 method was approved was because it provided some cost responsibility to all rate classes. (TR 4173)

Witness Ender explained that SFHHA's proposed use of the summer CP allocation method would shift costs away from the medium and large commercial rate classes, onto residential and small commercial classes. (TR 4073) Witness Ender explained that the use of the summer CP method does not recognize the energy component of the energy usage, and as a result, it would shift costs over to the higher demand customers like residential and general service, which are small commercial customers. (TR 4173) Witness Ender also stated that witness Baron represents customers that are in rate classes that will receive a pretty hefty reduction in cost allocations as a result of witness Baron's proposed methodology. (TR 4137)

CONCLUSION

Staff recommends that the appropriate cost of service methodology for production and transmission plant, including St. Lucie Unit 2, is the 12 CP and 1/13 methodology. Both witness Baron and witness Ender made persuasive arguments regarding the appropriate cost of service methodology. However, based on the review of the evidence, staff believes the record more strongly supports FPL's continued use of the 12 CP and 1/13 methodology, as it more appropriately reflects FPL's generation plan, and recognizes both demand and energy in allocation costs to all rate classes.

Date: December 23, 2009

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

Recommendation: If the Commission approves a rate increase, the appropriate allocation of any change, after recognizing any additional revenues realized in other operating revenues, should track, to the extent practical, each class's revenue deficiency as determined from the approved cost of service study, and move the classes to parity as practicable. No rate class should receive an increase greater than 1.5 times the system average percentage increase in total, and no class should receive a decrease. If the Commission approves a rate decrease, the decrease should be allocated to the rate classes on the basis of an equal percentage. (Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: AIF supports FPL position that the proper revenue requirement allocation is presented in Exhibit MFR E-14.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The Commission should continue to apply the principle of gradualism which prevents any class from receiving an overly large increase. FPL's proposal would result in Commercial/Industrial Load Control (CILC), General Service Large Demand-1 (GSLD-1) and General Service Large Demand-2 (GSLD-2) receiving increases in excess of the system average increase (at the rates FPL proposes). This would conflict with past Commission precedent and be patently unfair to customers.

FRF: Any change in base rate revenue requirements should be allocated among the customer classes on the basis of an equal percentage decrease (or increase) to all base rates.

SFHHA: FPL should be required to implement a measure of gradualism because of the significant increase in its revenue requirement and the economic environment. FPL should be required to limit increases to rates such that no rate schedule receives more than 1.5 times the average percentage increase in base rates and no rate schedule receives a rate decrease in base rates. This is consistent with prior Commission precedent.

Staff Analysis:

PARTIES' ARGUMENTS

FPL stated that parity among rate classes has not been addressed in over 20 years and therefore this filing presents an opportunity to adjust rates and charges to more closely reflect the cost of service. (FPL BR 107; TR 4185) FPL has not proposed to limit the increase to any rate class to no more than 150 percent of the system average in this case, as it would perpetuate subsidizations between the rate classes and would unfairly burden rate classes that are above parity. (FPL BR 139) FPL has set the target revenues by rate class in order to obtain parity among the classes to the greatest extent possible. (FPL BR 107; TR 4193) Witness Deaton stated that under FPL's proposed target revenues, 99.8 percent of all FPL customers will be within 10 percent of parity. (TR 4193)

AIF supported FPL's position. (AIF BR 48) AIF further stated in its brief that FPL's proposed rate design attempts to avoid cross-subsidization amount the different rate classes. (AIF BR 48)

FIPUG took the position that the Commission should continue to apply the principle of gradualism which prevents any class from receiving an overly large increase. (FIPUG BR 48) FIPUG stated that the commission has a long-standing practice of applying the principle of gradualism to prevent rate shock by limiting the rate increase to any rate schedule to 1.5 times the system average. (FPL BR 49) FIPUG further stated in its brief that FPL has proposed a flash cut movement to parity with disastrous results for customers. (FIPUG BR 49) For example, FPL's proposal would result in CILC, GSLD-1 and GSLD-2 receiving increases in excess of 1.5 times the system average increase. (FIPUG BR 50; TR 2988) FIPUG concluded that this would conflict with past Commission precedent and be patently unfair to customers. (FIPUG BR 48)

FRF's stated that in its brief that any change in base rate revenue requirements should be allocated among the customer classes on the basis of an equal percentage decrease (or increase) to all base rates. (FRF BR 103)

SFHHA agreed with FIPUG and stated in its brief that FPL should be required to implement a measure of gradualism because of the significant increase in its revenue requirement and the economic environment. FPL should be required to limit increases to rates such that no rate schedule receives more than 1.5 times the average percentage increase in base rates and no rate schedule receives a rate decrease in base rates. This is consistent with prior Commission precedent. (SFHHA BR 112-113)

ANALYSIS

This issue addresses the allocation of any revenue increase granted in Issue 137 to the various rate classes. Rate classes are groups of individual rate schedules with similar billing attributes and rate design relationships, so they are treated for rate design purposes on a combined basis.¹²⁸ (TR 4042) The final allocation to each rate class is largely dependent on the Commission-approved cost of service and revenue increase amount. No party other than FRF

¹²⁸ For example, time-of-use rate schedules are combined with their non-time-of-use counterparts. (TR 4043)

addressed how a revenue decrease, if approved in Issue 137, should be allocated to the rate classes. The disagreement between FPL, and FIPUG and SFHHA, centers on whether any increase to a particular rate class should be limited to no more than 1.5 times, or 150 percent, the system average. Gradualism is a concept that is applied to prevent a class from receiving an overly-large rate increase. (TR 2985)

FPL set the target revenues by rate class in order to obtain parity amount the classes to the greatest extent possible without limiting any rate classes' increase to 1.5 times the system average. (TR 4193) A rate class is at parity if it is earning the same as the system retail rate of return. (TR 4059) Witness Ender testified that FPL's current rates were set over 20 years ago in FPL's last fully litigated rate case, Docket No. 830465-EI, and since that time customer rates have been adjusted several times without regards to parity levels. (TR 4060) Witness Deaton stated that FPL's proposal provides an opportunity to address inequities between the rate classes at a time when overall bills are projected to decrease for most customers in 2010 with moderate increases in 2011. (TR 4208-4209) Bills on average will decrease in 2010 as a result of a reduction in costs due to lower fuel costs and increased efficiencies in FPL's system. (TR 4237, 4292) Witness Deaton further testified that taking a more gradual approach and not moving to parity to the fullest extent practicable now would result in the continued subsidization of certain rate classes by others. (TR 4209) Witness Deaton stated that for a number of years, medium and large commercial and industrial customers have benefited from a subsidy by residential and small commercial customers. (TR 4209) Larger commercial/industrial rate classes are below parity and need to be brought up to parity in order to carry their fair share of the cost. (TR 4239) Finally, Witness Deaton testified that the larger commercial/industrial customers are heavier energy users, they will see larger benefits in the fuel savings and should therefore pay their fair share of the production costs that produce those benefits. (TR 4239)

To support its position, FPL relied on two previous Commission decisions in which the Commission has not limited the increase to 1.5 times the system average. First, FPL stated that in the 1982 Gulf Power Company (Gulf) rate case, the Commission departed from its policy to limit the increase to any one class to no more than 1.5 times the system average.¹²⁹ (TR 4211) The Gulf order stated "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 classes with substantially lower rates of return." (TR 1765; FPL BR 109) In 1982, Gulf had six rate classes, and the Residential (RS) and Outdoor Service (OS) rate classes were below parity, while the four commercial rate classes were well above parity. The Commission divided the revenue increase between the RS and OS rate class. Staff is unclear as to what intervenor testimony was presented on this issue.

The second Commission order FPL relied on involved a recent Peoples Gas System (PGS) rate case.¹³⁰ (TR 4211) In that decision, the Commission allowed increases to rate classes greater than 150 percent the system average. However, the PGS case presented unique circumstances, and furthermore, staff believes that different considerations go into setting gas rates. Staff does not believe the PGS case provides a reasonable basis to support FPL's position.

¹²⁹ Order No. 10557, issued February 1, 1982, in Docket No. 810136-EU, In re: Petition for Gulf Power Company for an increase in its rates and charges.

¹³⁰ Order No. PSC-09-0411-FOF-GU, issued June 9, 2009, in Docket No. 080318-GU, In re: Petition for rate increase by Peoples Gas System.

Date: December 23, 2009

Witness Deaton also referenced the 1981 FPL rate case order in her rebuttal testimony. In that order the Commission ruled that no customer class shall receive a revenue increase greater than 1.5 times system average increase.¹³¹ However, witness Deaton testified that in that order the Commission indicated that this guideline was designed to mitigate the impact on customers' bills, and not out of some general principle of slowly moving towards parity and allowing cross-subsidization to continue. (TR 4210)

When a rate increase limit is imposed on a rate class, the remaining classes will have to absorb that difference. Parity at present rates is calculated in MFR E-1, Attachment 1 of 3. (EXH 180) Witness Deaton's Exhibit RBD-6, page 2 of 2, provides a summary of parity at present and proposed rates. (EXH 165) Witness Deaton testified that if the Commission were to limit the increase to 1.5 times the system average, the residential class would shoulder the bulk of the subsidization. (TR 4212) Specifically, under FPL's proposed revenue increase, \$43 million would be shifted from some rate classes to other rate classes, and target revenues for the residential class would need to increase by an additional \$28 million. (TR 4212) The General Service Demand (GSD-1) rate class would be allocated most of the remaining subsidization with an additional increase of \$11 million. The GSLD-1 and High Load Factor Time of Use (HLFT) rate classes would receive most of the benefit in a \$33 million reduction in target revenues. (TR 4212) Witness Deaton concluded that those classes have been enjoying the benefits of lower rates at the expense of some other classes, and from a cost perspective, it would be fair to have all classes carry their own fair share. (TR 4165) Staff notes that all the amounts presented by FPL are subject to change based on the revenue increase, if any, approved by the Commission in Issue 137.

The cost of service study provides that target revenue requirement by rate class. (TR 4039) FPL used the 12 CP and 1/13 Average Demand methodology to determine each rate class's cost of service. While staff recommends approval of FPL's proposed cost of service methodology, staff notes that a different cost of service could allocate costs in a different manner and yield different results. Witness Baron addressed this point by stating that costs are the way FPL defines costs for each rate class, and that the methodology Witness Baron recommended would result in a different cost responsibility. (TR 1767)

FIPUG Witness Pollock rejected FPL's position. Witness Pollock testified that the Commission should continue to apply the principle of gradualism to any base revenue increase that may be approved in this case, notwithstanding any predictions about subsequent changes in cost recovery clauses. (TR 2989) Witness Pollock further added that the cost recovery clauses are separate ratemaking mechanisms and can have positive or negative impacts on customers depending on the circumstances, and any projected short-term changes should not be considered in setting base rates. (TR 2990)

Staff agrees with Witness Pollock that cost recovery clauses can have a positive or negative impact on bills, and just because FPL projected a decrease in fuel prices for 2010, is not a valid reason to not apply the concept of gradualism. Upon cross examination, Witness Deaton agreed that fuel is volatile. (TR 4298) Furthermore, FPL does not know what fuel prices are going to be in 2011. (TR 4304) Witness Deaton testified that FPL does not know, for example,

¹³¹ Order No. 10306, issued September 23, 1981, in Docket No. 810002-EU, In re: Petition of Florida Power & Light Company for authority to increase its rates and charges.

if there could be some fuel disruption and FPL might see a spike in fuel prices that could amount to an increase in the total bill. (TR 4303) Conversely, FPL does not know if there will be further fuel reductions. (TR 4304) Furthermore, approximately 70 to 80 percent of FPL's fuel costs reflect natural gas prices, and natural gas prices are volatile. (TR 4237-4238) While Witness Deaton testified that fuel prices will not go up as much as they would have, absent efficiency savings that FPL is making on its system, Witness Deaton also stated fuel prices vary from period to period. (TR 4305)

SFHHA Witness Baron testified FPL has not implemented any material measure of gradualism or mitigation in assigning increases to the rate schedule. (TR 1734) Witness Baron stated that under FPL's proposed increases, some commercial rate schedules will receive increases of 50 percent to 60 percent. (TR 1702) Witness Baron rejected FPL's position that prior rate case settlements and other factors that have limited a full consideration of cost of service and rate parity by the Commission. (TR 1736-1737) Witness Baron testified that each case rests on its own merits, and FPL agreed to past rates that were a result of a settlement. (TR 1737) Witness Baron stated that FPL's position seems to be that the prior settlements produced unjust rates and therefore in this case it is necessary to fix the problem and address these past mistakes. (TR 1737)

CONCLUSION

Based on the review of prior Commission decisions, it appears that the Commission has discretion in whether to apply the 1.5 limit. While the Commission, for example, did not apply this limit in the 1982 Gulf rate case, in more recent electric rate cases the Commission has ruled that no class should receive an increase greater than 1.5 times the system average.¹³² Both FPL, and FIPUG, and SFHHA raised valid arguments in support of their positions. However, staff is persuaded by FIPUG's and SFHHA's testimony that fuel costs are volatile and could increase in the future, thus raising overall bills again. The timing of FPL's rate case filing could have also happened during a period of increasing fuel costs.

Consistent with the Commission's decision in more recent electric rate cases, staff recommends that no class should receive an increase greater than 1.5 times the system average percentage increase in total, i.e., with adjustment clauses, and no class should receive a decrease. When calculating the percentage increase, FPL should use the approved 2010 adjustment clause factors. If the Commission approves a rate decrease, the decrease should be allocated to the rate classes on the basis of an equal percentage, as recommended by FRF. No other party presented testimony on how to allocate a revenue decrease.

¹³² Order No. 080317-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for rate increase by Tampa Electric Company; Order No. PSC-08-0327-FOF-EI, issued May 19, 2008, in Docket No. 070304-EI, In re: Petition for rate increase by Florida Public Utilities Company; Order No. PCS-02-0787-FO-EI, issued June 10, 2002, in Docket No. 010949, In re: Request for rate increase by Gulf Power Company.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

Issue 143: Has FPL properly adjusted revenues to account for unbilled revenues? (Category 2 Stipulation)

Approved Stipulation: Yes. The appropriate adjustment to account for the increase in unbilled revenue is that shown in MFR E-12.

Date: December 23, 2009

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

Recommendation: No. If the Commission approves an increase in FPL's operating revenues, the appropriate service charges are \$75 for Initial Connection, \$19 for Field Collection, \$48 for the Reconnection Charge, \$21 for the Connect/Disconnect at an Existing Premise, and a Returned Payment Charge as allowed by Section 68.065, Florida Statute. If the Commission approves no increase, or a decrease in FPL's operating revenues, the service charges should remain at their current level. (Thompson)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No. This just increases the burden on customers who are already struggling to pay their bills timely. These rates should be reduced. Although FPL's witnesses denied that this would have a bigger impact on the lower income customers because the charges were based on credit ratings, this ignores the obvious fact that the lower income customers are struggling to pay their bills and are likely to have a less favorable credit rating. The customers testified at the service hearings that they had always lived within their means and paid their bills timely but they were now suffering from wages and social security payments that had been frozen and they were struggling to pay their essentials. By increasing the initial connect fee, the Company is also decreasing the number of young customers who are just completing school and are trying to establish their jobs and homes. Although FPL talks about making efforts to increase their customer base, they seem unwilling to make small efforts like reducing their initial connect fees.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

Date: December 23, 2009

FRF: No. FPL's proposed charges are too high and should be reduced commensurately with the overall reduction in FPL's rates indicated by the evidence in this case.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL stated that it has been over 20 years since the cost basis for FPL's service charges have been evaluated and that there is a clear need to ensure each transaction is fully cost-based and that customers do not subsidize service charges through base rates. (FPL BR 110)

The AG and FRF stated that FPL's proposed service charges are not appropriate. The AG was concerned with the higher service charges causing a burden on customers while FRF agreed the charges are too high and should be reduced if the Commission approves an overall reduction in FPL's rates. (AG BR 21-22; FRF BR 103)

ANALYSIS

Witness Santos stated in her direct testimony that it has been more than 20 years since the cost bases for service charges have been evaluated for FPL. (TR 1565) In order to appropriately analyze these service charges, staff prepared the following table:

<u>COMPARISON OF SERVICE CHARGES</u>				
	<u>Current Charge</u>	<u>Proposed Charge</u>	<u>Staff Recommended</u>	<u>Cost of Connection</u>
Initial Connect	\$14.88	\$100.00	\$75.00	\$135.95
Field Collection	\$5.11	\$19.00	\$19.00	\$19.14
Reconnect for Non-Payment Service Charge	\$17.66	\$48.00	\$48.00	\$47.83
Connection of an Existing Account	\$14.88	\$21.00	\$21.00	\$20.86
Returned Payment	\$23.24 or 5% of the amount of payment, whichever is greater	Amount Approved by Section 68.065, F.S	Amount Approved by Section 68.065, F.S	

Initial Connect

The initial establishment of service charge is collected to cover the cost for the work required to connect a location to FPL's infrastructure. FPL's current rate for the initial connection of service is \$14.88, and the proposed rate is \$100.00. A cost study was completed to evaluate the cost the company incurs for this service. The cost established was \$135.95. (EXH 180, MFR Schedule E-7, p. 1 of 8) FPL Witness Santos stated that a service charge of \$100 is a reasonable charge, based on the work required for the initial connect/disconnect activity. In

Date: December 23, 2009

addition, 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)

The AG, in its brief and during cross examination of FPL witness Santos, raised concerns with this higher charge for initial connect. (AG BR 21-22; TR 1623-1624) To address the AG's concerns, staff recommends the service charge be set at \$75. This charge will be comparable to the initial connect charge the Commission approved in the recent TECO rate case.¹³³ Staff is aware that since this recommended charge is lower than the cost study indicated, the cost difference would be collected through base rates from all rate payers.

Field Collection

The field collection charge is added to a customer's bill for electric service when a field visit is made and payment is collected on a delinquent account. If the service is disconnected, or a current receipt of payment is shown at the time of the field visit, no charge would be applied. FPL's current rate for the field collection charge is \$5.11 and the proposed rate is \$19.00. (EXH 180, Schedule E-14, Proposed Tariff Sheet 4.020) A cost study was completed to evaluate the cost the company incurs for this service. The cost established was \$19.14. (EXH 180, MFR Schedule E-7, page 3 of 8)

Reconnect for Non-Payment

The reconnection charge covers FPL's cost of reconnection of service after disconnection for nonpayment or violation of a rule or regulation. FPL's current rate for the reconnect for non-payment service charge is \$17.66, and the proposed rate is \$48.00. A cost study was completed to evaluate the cost the company incurs for this service. The cost established was \$47.83. (EXH 180, MFR Schedule E-7, page 4 of 8) The proposed rate was set at cost of service.

Connection of an Existing Account

The connection of an existing account charge is collected to cover the costs the company incurs to establish a new account at a location already established on FPL's infrastructure. This cost also includes the customer's subsequent disconnect of service. FPL's current rate for Non-payment Reconnect is \$14.88 and the proposed rate is \$21.00. A cost study was completed to evaluate the cost the Company incurs for this service. The cost established was \$20.86. (EXH 180, MFR Schedule E-7, p.2 8) The proposed rate was set at cost of service.

Returned Payment

A returned payment charge is collected when a check or draft is not honored by the bank on which it was drawn. Currently FPL charges \$23.24 or 5% of the amount of payment, whichever is greater. FPL's proposed charge would comply with Florida Statute 68.065, which specifies a tiered fee structure based on the returned payment amount (TR 1567):

\$25 if payment amount is less than or equal to \$50;

¹³³ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for Rate Increase by Tampa Electric Company.

Date: December 23, 2009

\$30 if payment amount exceeds \$50 but is less than or equal to \$300;

\$40 if payment amount exceeds \$300 or 5% of the amount, whichever is greater

In response to staff's discovery, FPL stated that it had a 20 percent increase in returned payments from 2007 to 2008. (EXH 35, BSP 55-81) FPL incurs additional costs when a check is returned. Customers who cause the utility to incur additional costs should be responsible for paying those costs. With these new rates, FPL hoped to create a stronger deterrent and help minimize the number of returned items received. (EXH 35, BSP 55-81)

CONCLUSION

If the Commission approves an increase in FPL's operating revenues, staff recommends that the appropriate service charges are \$75 for Initial Connection, \$19 for Field Collection, \$48 for the Reconnection Charge, \$21 for the Connect/Disconnect at an Existing Premise, and a Returned Payment Charge as allowed by Section 68.065, F.S. If the Commission approves no increase, or a decrease in FPL's operating revenues, the service charges should remain at their current level.

Date: December 23, 2009

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

Recommendation: No. If the Commission adopts staff's recommendation in Issue 89, FPL has stated its intent to withdraw the changes to the Late Payment Charge. In an abundance of caution, staff recommends that the Commission formally deny the proposed minimum late payment charge. (Piper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No. Customers are struggling to pay their bills and adding more to their burden is counterproductive and not in the public's best interest. Although FPL stated these charges were intended to "incent" their customers to pay on time, they don't seem to grasp the fact that those who don't have the money are doing everything they can to pay on time and increasing the late charges penalizes these customers and makes it less likely for them to pay on time the next month. It was also inappropriate that FPL wants to "incent" their customers for what they view as poor behavior but hasn't considered penalizing FPL for failures such as not trimming vegetation timely and missing appointments and the other things about which the customers complained in order to "incent" the company.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL asked to establish a minimum late payment charge that will provide the appropriate incentive for customers to improve payment behavior while benefiting all customers. (TR 1572) FPL currently charges 1.5 percent for late payments, but proposed the greater of 1.5 percent or \$10. FPL saw a steady increase in the number of customers making late payments, driven largely by the deteriorating economy. The percent of customers with late payments increased

from 21% in 2006 to 24% in 2008. This is an increase of 150,000 customers on average per month. (FPL BR 111; TR 1568) FPL argued that other industries use late payment charges greater than \$10 to encourage customers to pay on time. FPL stated that the other Florida utilities that currently charge a fee similar to what FPL proposed are the City of Miramar Utilities, which charges a \$15 fee, and the Lee County Electric Cooperative, which charges a \$10 fee for residential customers. (FPL BR 111; TR 1568) FPL believed that a \$10 minimum late payment charge will provide the appropriate incentive for customers to improve payment behavior. (FPL BR 111-112; TR 1568) FPL believed that \$5 was not going to be sufficient to incent good payment behavior and felt that \$10 would be sufficient. (TR 1638) FPL also stated that if the Commission does not accept its position with respect to the new fee's effect on revenues, FPL would withdraw its late payment charge proposal. (FPL BR 112)

The AG objected to the \$10 late payment charge. The AG stated that customers are struggling to pay their bills and adding more to their burden is counterproductive and not in the public's best interest. The AG argued that although FPL stated these charges were intended to "incent" their customers to pay on time, and increasing the late charges penalizes these customers and makes it less likely for them to pay on time the next month. (AG BR 22)

FRF took the position that the minimum late payment should not be increased to \$10. (FRF BR 103)

OPC, AFFIRM, AIF, South Daytona, FEA, FIPUG, and SFHHA took no position on this issue.

ANALYSIS

Staff is recommending that, if the Commission adopts staff's recommendation in Issue 89, then the Commission should deny FPL's proposed minimum late payment charge. Although FPL has stated it will withdraw the requested change, in an abundance of caution, staff recommends that the Commission formally deny the proposed charge. That is consistent with the position taken by the AG and FRF to deny the proposed \$10 minimum charge. In the alternative, staff has included a discussion on a minimum late payment charge consistent with what has been approved for other investor-owned electric utilities in Florida, if the Commission believes a minimum is appropriate.

Denial of proposed \$10 minimum late payment charge. FPL currently charges 1.5 percent of the outstanding balance as a penalty for late payments, but proposed to change this to the greater of 1.5 percent or \$10. (TR 1618) FPL requested an adjustment revenue to reflect what it believed were appropriate fall-outs of its proposal to impose a \$10 minimum late payment charge. This included a 2 percent reduction in revenue due to write-offs and a reduction in late bills due to the higher minimum charge. FPL stated in its brief that if the adjustments to revenue were not approved, FPL would withdraw its proposed change to the Late Payment Charge. (FPL BR 112) In Issue 89, staff recommends adopting OPC's position to deny the 2 percent write-off and 30 percent behavioral adjustment. Since FPL has stated its intent to withdraw the proposal if the Commission rejects the two proposed adjustments the issue is essentially moot, but in an abundance of caution, staff recommends that the Commission formally deny the proposed change.

Minimum \$5 late payment charge alternative. If the Commission believes some minimum late payment charge is appropriate, staff recommends that a \$5 minimum charge be established in addition to the 1.5 percent. The Commission has approved a \$5 minimum late payment charge for Tampa Electric Company (TECO),¹³⁴ Progress Energy Florida (PEF),¹³⁵ and Florida Public Utility (FPUC).¹³⁶ (TR 1637-8) In the FPUC case, the Commission found that the minimum was appropriate because it tracked the incremental costs the utility incurred as a result of late payments. FPL witness Santos testified that FPL looked at the \$5 late payment charge, but felt that \$5 was not sufficient to encourage good payment behavior, and believed that \$10 would be sufficient. (TR 1638) However, this is the only reason FPL gave for increasing the minimum to \$10, and it did not provide any calculations or documentation to support this amount. (TR 1635-6, EXH 35, BSP 5-54)

FPL testified that other Florida utilities currently charge a fee similar to what FPL proposed, and used the City of Miramar Utilities, which charges \$15, and the Lee County Electric Cooperative, which charges \$10, as examples. (TR 1568) These are the only examples FPL provided, and the Commission does not regulate the late payment charges for these utilities. None of the investor-owned electric utilities have a \$10 or greater minimum late payment.

The AG and FRF objected to increasing the minimum late payment fee to \$10. (AG BR 22; FRF BR 103) While staff agrees that any late payment fee would negatively impact customers already struggling to pay bills, FPL does incur costs to process late payments which should be borne by the cost causer. If the Commission wishes to consider a late payment minimum charge, staff recommends a \$5 minimum fee, because it is consistent with the precedent for three other investor-owned electric utilities.

CONCLUSION

If the Commission adopts staff's recommendation in Issue 89, FPL has stated it's intent to withdraw the changes to the Late Payment Charge. In an abundance of caution, staff recommends that the proposed charge be formally denied.

¹³⁴ Order No. PSC-09-0283-FOF-EI, issued April 30, 2009, in Docket No. 080317-EI, In re: Petition for a Rate Increase by Tampa Electric Company.

¹³⁵ Order No. PCS-05-0945-S-EI, issued September 28, 2008, in Docket No. 050078-EI, In re: Petition for a Rate Increase by Progress Energy Florida, Inc.

¹³⁶ Order No. PSC-02-1753-TRF-EI, issued December 12, 2002, in Docket No. 021127-EI, in Re: Request for approval of Eighth Revised Tariff Sheet No. 22.1 to change late fee provisions to assist in reducing late payment amounts and to reduce bad debts to historical level by Florida Public Utilities Company.

Issue 146: Are FPL's proposed Temporary Service Charges appropriate? (4.030) (Category 2 Stipulation)

Approved Stipulation: Yes. The appropriate Temporary/Construction Service Charges, as shown in MFR E-14, Attachment 1, are: (1) for Overhead: \$255; and (2) for Underground: \$142.

Issue 147: Is FPL's proposed increase in the charges to obtain a Building Efficiency Rating System (BERS) rating appropriate? (4.041) (Category 2 Stipulation)

Approved Stipulation: Yes. FPL has properly calculated the proposed charges for providing BERS audits pursuant to Florida Administrative Code Rule 25-17.003(4)(a).

Date: December 23, 2009

Issue 148: Are FPL's proposed termination factors to be applied to the total installed cost of facilities when customers terminate their Premium Lighting (PL-1) or Recreational Lighting (RL-1) agreement prior to the expiration of the contract term appropriate? (8.722 and 8.745)

Recommendation: Yes. The termination factors to be applied to the total installed cost of facilities when customers terminate their Premium Lighting (PL-1) or Recreational Lighting (RL-1) agreement prior to the expiration of the contract term are appropriate, subject to recalculation based on the Commission's decisions on prior issues. (A. Roberts)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

It is FPL's position that the 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. (FPL BR 140) No other party has taken a position on this issue.

ANALYSIS

FPL's proposed termination factors are applied to customers taking service on the PL-1 or RL-1 rate schedule, who opted for monthly payments as opposed to a lump sum payment, and terminate their lighting agreement prior to the expiration of their 10 or 20 year contract period. The RL-1 rate schedule is a closed schedule, and not available to new customers. As stated in the Company's tariff sheet MFR E-14, Sixth Revised Sheet No. 8.722, and Second Revised

Sheet No. 8.745, in order to terminate service the customer must provide a 90-day written notification to the company of their intent to cease service. The amount a customer pays to terminate their contract is computed by applying the termination factor to the installed cost of the facilities, based on the year in which the agreement is terminated. The company proposed to remove the 10-year and 20-year payment options from the PL-1 and RL-1 tariff, which is addressed in stipulated Issue 153. In response to staff discovery, FPL provided the calculations of the proposed termination factors. (EXH 35, BSP 143-184)

CONCLUSION

Staff has reviewed the FPL's calculations and believes the proposed termination factors are appropriate, subject to recalculation based on the Commission's decisions on prior issues.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

Issue 149: Are FPL's proposed charges under the Street Lighting Vandalism Option notification appropriate? (8.717) (Category 2 Stipulation)

Approved Stipulation: Yes. The appropriate charge, as shown in MFR E-14, Attachments 1 and 3, is \$279.98.

Issue 150: Is FPL's proposed Present Value Revenue Requirement (PVRR) 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)

Recommendation: Yes. The appropriate Present Value Revenue Requirement multiplier to be applied to the installed cost of premium lighting facilities under rate Schedule PL-1 and RL-1 is 1.3722, as proposed by FPL, subject to recalculation based on the Commission's decisions in prior issues. (A. Roberts)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No. The Present Value Revenue Requirement multiplier should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL's position is that the proposed PVRR 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. (FPL BR 140-141) The PVRR multiplier as proposed by the Company would result in a change from 1.1605 to the proposed 1.3722.

FRF's position is that the PVRR multiplier is not appropriately calculated as presented by the Company, and should be adjusted to reflect the Commission's decision regarding cost of capital and depreciation rates in this proceeding. (FRF BR 104) No other party has taken a position on this issue.

ANALYSIS

The PVRR multiplier is designed to produce an estimate of the cumulative cost of the project over its useful life. Under FPL's PL-1 and RL-1 lighting tariffs, FPL provides FPL-owned facilities, and the customer requesting such facilities is required to pay FPL for the facilities in a lump sum payment. The amount is the company's total work order cost for these facilities times the PVRR multiplier. FPL provided the calculations and assumptions used to determine the PVRR in response to staff discovery. (EXH 35, BSP 143-184) Staff does agree with FRF that if decisions on other issues impact the inputs to the PVRR, it should be adjusted using the approved inputs.

CONCLUSION

After reviewing FPL's calculations, staff believes the calculations used to determine the PVRR are appropriate, and recommend that the Commission approve the charges as proposed by FPL. However, any changes to assumptions such as the cost of capital, depreciation rates, or depreciation, should be adjusted to reflect the Commission vote on such issues.

Date: December 23, 2009

Issue 151: Is FPL's proposal to close the Wireless Internet Rate (WIES) schedule to new customers appropriate? (Category 2 Stipulation)

Approved Stipulation: Yes. As outlined in the current WIES tariff FPL is authorized to petition the Commission to close the WIES rate schedule if the kWh under the rate schedule have not reached 360,000 kWh by June 2004. For the twelve month period ending June 2009, kWh sales under the WIES have only reached 20,640 kWh.

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)

Recommendation: No. 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 should not be approved. FPL should provide these customers with a more detailed description of FPL's maintenance responsibilities. (Piper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL proposed to remove the relamping option for new customers on the Street Lighting (SL-1) and Outdoor Lighting (OL-1) tariffs. FPL argued that this change would clarify maintenance responsibilities, and eliminate potential customer dissatisfaction. (TR 4196) FPL claimed that customers choosing this option often believe that FPL is responsible for all maintenance instead of just relamping. (FPL BR 112) The relamping option is the only service option available to customers who own their fixtures. (FPL BR 112, 141; TR 4196) FPL has not proposed to change the service options for customers who lease lighting fixtures from the utility.¹³⁷

¹³⁷ FPL Retail Tariffs, Sheet Nos. 8.715 and 8.725.

OPC, AFFIRM, AG, AIF, South Daytona, FEA, FIPUG, FRF, and SFHHA took no position on this issue.

ANALYSIS

FPL currently offers a relamping option for Street Lighting (SL-1) and Outdoor Lighting (OL-1) customers who own their own lights and poles. Relamping only covers changing out light bulbs that need to be replaced; it does not cover any other maintenance or repair. As of March 2009, there were 244 accounts with fixtures covered by the current relamping option. These customers would be grandfathered in under FPL's proposed change. (EXH 35, BSP 5-54)

FPL stated that it discusses relamping policies with all new potential SL-1 and OL-1 customers, and any customers who have a question regarding FPL's relamping policies. (EXH 35, BSP 5-54) FPL claimed that customers who own their own outdoor lights are dissatisfied because they often believe that FPL is responsible for all maintenance instead of just relamping. (TR 4196; FPL BR 141) FPL did not provide any details on the number or frequency of customer complaints. (EXH 35, BSP 5-54) Clarifying maintenance responsibilities is the main argument FPL used as the reason for closing the relamping option. (FPL BR 112, 141)

FPL stated that it will still retain the full maintenance option for customers who lease lighting fixtures from FPL. (FPL BR 141, TR 2264) If the relamping option is closed to new customers, customers who own their own units will have to secure another means for relamping their units. (EXH 35, BSP 5-54) Staff believes this is an undue burden on these customers.

CONCLUSION

Staff recommends that the Commission deny 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. Eliminating the relamping option would shift this burden to customers who may not have other readily available options for relamping. If the only issue is customer confusion over the utility's responsibility, that can be remedied by providing customers with a more detailed description of FPL's maintenance responsibilities.

Issue 153: Should FPL's proposal to remove the 10 year and 20 year payment options from the PL-1 and RL-1 tariff be approved? (8.720 and 8.743) (Category 2 Stipulation)

Approved Stipulation: Yes. Removing this option will avoid collection issues that 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).

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)

Recommendation: The monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider proposed by FPL is appropriate, subject to recalculation based on the Commission's decisions on prior issues. (Piper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

Pursuant to FPL's Transformation Rider tariff sheet No. 8.820, if a customer installs their own transformers, FPL provides a monthly credit per kilowatt (kW) of billing demand to recognize the avoided cost. FPL proposed to revise the monthly credit from \$0.39 to \$0.32 per kW for 2010, and to \$0.33 per kW for 2011. (EXH 180, MFR Schedule E-14, Attachment 1 of 3, page 43 of 51)

No other parties took a position for this issue.

ANALYSIS

The credit is based on distribution secondary transformer costs as calculated in the cost of service study. (EXH 35, BSP 5-54; EXH 180, MFR E-6b) Staff reviewed the assumptions used in FPL's development of the monthly credits. Staff also reviewed the supporting calculations in Staff's Third Set of Interrogatories No. 9 and MFR Schedule E-6b. (EXH 35, BSP 5, EXH 180, MRF Schedule E-6b, p.5-7) Staff believes the underlying assumptions are appropriate, however,

the credits should be revised if the inputs to the calculations are affected by decisions in other issues. If the inputs change, the credits should be recalculated using the new inputs.

CONCLUSION

Staff recommends that the monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider proposed by FPL is appropriate, subject to recalculation based on the Commission's decisions on prior issues.

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?

Recommendation: Yes. 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 is appropriate, subject to recalculation based on the Commission's decisions in prior issues. (Piper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with FRF.

FRF: No. The monthly fixed charge carrying charge rate multiplier should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL's tariff provides that the Company may, at its option, provide and maintain transformers and other facilities which are required by the customer beyond the point of delivery or which are needed because the customer requires unusual facilities due to the nature of his equipment. (EXH 180, MFR Schedule E-14, Attachment 1 of 3, page 50 of 51)

The customer may elect to make either a lump sum payment or pay a monthly maintenance charge. FPL proposed to revise the monthly charge from 28 percent to 27 percent per year of the agreed installed cost of such facilities. (EXH 35, BSP 5-54) This annual facility rental charge is calculated based on the following percentage charges: adjusted return on capital, distribution maintenance, general and administrative, customer account and service,

Date: December 23, 2009

depreciation, insurance, and property taxes. These percentages are all added to total the annual facility rental charge of 27 percent. (EXH 35, BSP 5-54)

FRF argues that the monthly fixed charge carrying charge rate multiplier should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding. FIPUG agrees.

No other parties take a position on this issue.

ANALYSIS

Customers have the option of renting electric facilities from FPL in lieu of paying for them themselves. The customers pay FPL a monthly fee to provide and maintain transformers and other facilities that the customer needs beyond standard service. Staff reviewed the assumptions used to calculate the annual facility rental charge. Staff believes these assumptions and calculations are appropriate. However, certain assumptions, such as the cost of capital and depreciation rates, are subject to change based on the Commission vote in prior issues.

CONCLUSION

Staff recommends that the 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 is appropriate, subject to recalculation based on the Commission's decisions in prior issues.

Date: December 23, 2009

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?

Recommendation: Yes. 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 is appropriate, subject to recalculation based on the Commission's decisions in prior issues. (Piper)

Position of the Parties

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

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No. To the extent that the Monthly Rental Factor includes component factors for cost of capital and depreciation, this Factor should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL proposed to change the distribution substation facilities monthly rental factor from 1.62 percent to 1.83 percent. The monthly rental factor is applied to the in-place value of customer-rented distribution substations to determine the monthly rental fee for these facilities. This monthly rental factor is calculated based on the following percentage charges: levelized annual distribution substation factor, distribution substation maintenance factor, general and administrative factor, customer account and service factor, insurance, and property taxes. These percentages are all added to total the annual distribution substation rental charge. The charge is then divided by twelve to get the monthly rental factor of 1.83%. (EXH 35, BSP 5-54)

FRF agrees that this factor should be adjusted to reflect the Commission's decisions regarding cost of capital and depreciation rates in this proceeding. (FRF BR 105)

No other parties take a position on this issue.

ANALYSIS

Staff reviewed the assumptions used to calculate the monthly rental factor. Staff believes the assumptions and calculations are appropriate, however, certain inputs such as cost of capital or depreciation rates are subject to change based on the Commission vote in prior issues. Staff recommends that the monthly rental factor should be recalculated base on the Commission vote in previous issues.

CONCLUSION

Staff recommends that the 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 is appropriate, subject to recalculation based on the Commission's decisions in prior issues.

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)

Recommendation: Yes. FPL's proposed termination factors to be applied to the in-place value of customer-rented distribution substations to calculate the termination fee are appropriate, subject to recalculation based on the Commission's decisions in prior issues. (Piper)

Position of the Parties

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

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL is the only party who addressed this issue. FPL proposed to revise the termination factors to be applied to the in-place value of customer-rented distribution substations. The proposed termination factors are shown on Tariff Sheet No. 10.015. (EXH 180, MFR Schedule E-14, Attachment No. 1 of 3, page 51 of 51) The tariff provides that if a long-term rental agreement for Distribution Substation Facilities is terminated, a termination fee is computed by applying the termination factors to the in-place value of the facilities based on the year in which the agreement is terminated.

No other parties took a position on this issue.

ANALYSIS

The long-term rental agreement for distribution substation facilities provides for a 20-year initial term. If the customer elects to terminate the agreement during the initial term, the customer is responsible for a termination fee as provided for on Tariff Sheet No. 10.015. This termination fee is calculated by applying the termination factors to the in-place value of the facilities based on the year in which the agreement is terminated. (EXH 180, MFR Schedule. E-14, Attachment No. 1 of 3, page 51 of 51)

In response to staff discovery, FPL explained that the termination fee is calculated by taking the present value of what the customer would have paid on a non-levelized basis up to the point of termination and subtracting the present value of what the customer has already paid up to that date on a levelized basis. Interest is applied to this amount using the weighted average cost of capital. At twenty years, the termination factor goes to zero. (EXH 35, BSP 5-54) Some of the inputs to this calculation are affected by decisions on other issues in this case. Staff recommends that the charges be recalculated based on any change in inputs.

CONCLUSION

Staff reviewed the methodology used to calculate the termination factors. Staff believes the calculations are appropriate, however, certain inputs such as the weighted cost of capital may change as a result of the Commission vote in other issues. Staff recommends that the termination factors be recalculated based on the Commission vote in previous issues.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

Issue 158: Is FPL's proposed minimum charge for non-metered service under the GS rate appropriate? (Category 2 Stipulation)

Approved Stipulation: Yes, the proposed minimum charge for non-metered service under the GS rate appropriately reflects the difference between the GS customer charge and the metering costs for serving GS-1 customers.

Date: December 23, 2009

Issue 159: What are the appropriate customer charges?

Recommendation: The methodology FPL used to calculate the customer charges is appropriate. However, the final customer charges are dependent on the final revenue requirement. FPL should recalculate the customer charges based on the revenue requirement approved by the Commission in Issue 137. The decision on the final customer charges will be presented at the Rates Agenda. (Thompson)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: The appropriate customer charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing customer charges.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

This issue addressed FPL's proposed customer charges associated with its provision of service. FPL listed all the proposed customer charges in MFR Schedule A-3 and suggests these proposed charges be subject to revision to reflect the impact of any adjustments in Exhibit 358.

FRF takes the position that the customer charges should result from applying the percentage decrease or increase in FPL's authorized revenue requirements. (FRF BR 105)

ANALYSIS

Customer charges are flat fees assessed each month, regardless of the amount of energy (kilowatt hours) used. Utilities typically design and levy customer charges to recover specific accounts associated with meter reading, metering equipment, customer service, and bill processing. Customer charges differ by rate class, depending on the class of customer and the types of equipment used to provide service.

Staff recognizes FRF's concern that customer charges may be affected if the Commission approves a smaller increase or decrease in overall revenue requirements. Due to the wide range of revenue requirements discussed in this case, the costs associated with the customer charge could change significantly. Therefore, staff recommends a decision on the final customer charges should be deferred to the rates agenda, after the decision on the revenue requirement is made.

CONCLUSION

FPL should recalculate the costs used to determine the customer charges, based on the approved revenue requirement. A decision on the final customer charges should be deferred to the Rates Agenda Conference, along with other final rates.

Date: December 23, 2009

Issue 160: What are the appropriate demand charges?

Recommendation: If the Commission approves an increase, or decrease, to FPL's annual operating revenues in Issue 137, the demand (and energy) charges should be set as close to unit cost as possible, while also considering bill impacts for all customers in a rate class. FPL's method of limited adjustments to the unit cost to maintain the appropriate relationship between rate schedules appears reasonable. The final demand charges will be determined at the January 29, 2010, rates Agenda Conference. (Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: FPL's demand-related costs should be recovered through the demand charge and energy-related base rate costs should be collected through the energy charge. However, FPL's proposed General Service Demand (GSD and GSLD) rate designs do not follow this practice. FPL has underpriced the demand charge and overpriced the energy charge. Demand charges should be increased to recover the target revenues assigned to the Commercial/Industrial Load Control (CILC) class.

FRF: The appropriate demand charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing demand charges.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL stated that the appropriate demand charges are those shown in MFR Schedule A-3. These charges are subject to revision to reflect the impact, if any, of adjustments listed on Exhibit 358. (FPL BR 142)

Witness Pollock testified that FPL's proposed rate design should more closely align the demand and energy charges to reflect the corresponding demand and non-fuel energy-related

costs. (TR 2939) Witness Pollock asserted that FPL has underpriced the demand charge and overpriced the energy charge. (TR 2991)

FRF stated in its brief that the appropriate demand charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing demand charges. (FRF BR 105)

ANALYSIS

This issue addresses the methodology FPL should use to design the demand and energy charges if the Commission grants FPL a change in operating revenues in Issue 137. Since the demand and energy charges (Issue 161) are set in combination to produce the class revenue requirements, staff believes it is more appropriate to discuss the methodology for both charges in this issue. The final demand and energy charges will be determined at the January 29, 2010, rates Agenda Conference, and will be based on the Commission vote in all issues addressed in this recommendation.

FIPUG took issue with the way in which FPL calculated the demand and energy charges. Specifically, witness Pollock asserted that all demand related costs should be recovered through the demand charge and energy charges should reflect only energy related costs. He asserted that FPL has underpriced the demand charge and overpriced the energy charge for both standard and time-of-use rates. (TR 2991-2992)

FPL has calculated demand charges based on demand costs resulting from the proposed cost of service study. The 2010 per unit demand cost for the General Service Demand classes is shown at \$11.95. (EXH 180, MFR Schedule E-14, Attachment 2 of 3, page 10 of 37) As shown in MFR Schedule E-14, Attachment 2 of 3, page 10 of 37, FPL then adjusted this number to arrive at different demand charges for each rate class. FPL first reduced the \$11.95 unit cost by \$2.00 across the board for all rate classes. FPL then made further adjustments to each class to arrive at the proposed demand charges. The adjustment made to the GLSD-3 demand charges account for the fact that GLSD-3 customers are transmission level customers and do not incur distribution costs. (EXH 166) The proposed demand charges for each class are shown in MFR Schedule E-13C. (EXH 180, MFR Schedule E-13c, pp. 11, 12, 14, and 15)

Witness Deaton in rebuttal testimony stated that a following a strict unit rate for demand charges as proposed by Witness Pollock would distort the relationships between the general service demand classes and make it difficult to achieve target revenue while maintaining time-of-use design goals and principals. (TR 4213) Witness Deaton further stated that FPL made limited adjustments to the general service demand rates to maintain the appropriate relationships between rate schedules within the general service demand classes. (TR 4213) Additionally, adjustments were made to the energy charges for the purposes of meeting target revenue levels by rate class. (TR 4213)

Staff agrees with witness Pollock that demand charges should reflect demand costs and energy charges should reflect energy costs to the greatest extent possible. However, consideration of rate stability and rate shock are also important considerations in rate design. Increases in the demand charge impact low load factor customers to a greater extent than high load factor customers, because they are less able to offset the higher demand costs with lower

energy costs, and are thus less able to affect their total bill. FPL's demand rates have not changed significantly in over twenty years. Increasing demand charges to recover the full demand allocated costs could disproportionately affect low load factor customers.

CONCLUSION

Both demand and energy charges should be set as close to unit cost as possible, while also considering bill impacts for all customers in a rate class. Staff believes that FPL's method of limited adjustments to the demand and energy unit cost to maintain the appropriate relationship between rate schedules appears reasonable. However, the final demand and energy charges will depend on the Commission's vote in other issues in this recommendation.

Issue 161: What are the appropriate energy charges?

Recommendation: This is a fall-out issue and will be decided at the January 29, 2010, Agenda Conference. (Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: FPL's demand-related costs should be recovered through the demand charge and energy-related base rate costs should be collected through the energy charge. However, FPL's proposed General Service Demand rate designs do not follow this practice. FPL has underpriced the demand charge and overpriced the energy charge and the non-fuel energy costs exceed FPL's unit costs. FPL's proposed energy charges for the GSLD-1 and GSLD-2 rate classes exceed their costs by 87% and 111% respectively. Thus, energy costs should be decreased to reflect unit costs.

FRF: The appropriate energy charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing energy charges.

SFHHA: No position.

Staff Analysis: This is a fall-out issue and will be decided at the January 29, 2010, Agenda Conference. Issue 160 includes staff's recommendation on the overall methodology to design FPL's demand and energy charges.

Date: December 23, 2009

Issue 162: What are the appropriate lighting rate charges?

Recommendation: This is a fall-out issue and will be determined at the January 29, 2010, Agenda Conference. (A. Roberts)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: The appropriate lighting charges are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing lighting charges.

SFHHA: No position.

Staff Analysis: This is a fall-out issue and will be determined at the January 29, 2010, Agenda Conference.

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

Recommendation: This is a fall-out issue and will be decided at the January 29, 2010, Agenda Conference. The standby and supplemental service charges should be designed in accordance with the Commission's prescribed methodology in Order No. 17159. (Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: The appropriate charges under Rate Schedule SST-1 are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing SST-1 charges.

SFHHA: No position.

Staff Analysis: This is a fall-out issue and will be decided at the January 29, 2010, Agenda Conference. The standby and supplemental service charges should be designed in accordance with the Commission's prescribed methodology in Order No. 17159.¹³⁸

¹³⁸ Order No. 17159, issued February 6, 1987, in Docket No. 850673-EU, In re: Generic Investigation of Standby Rates for Electric Utilities.

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

Recommendation: This is a fall-out issue and will be decided at the January 29, 2010, Agenda Conference. (Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: The appropriate charges under Rate Schedule ISST-1 are those resulting from applying the percentage decrease (or increase) in FPL's authorized revenue requirements to the existing ISST-1 charges.

SFHHA: No position.

Staff Analysis: This is a fall-out issue and will be decided at the January 29, 2010, Agenda Conference.

Issue 165: Is FPL's design of the High Load Factor Time of Use (HLFT) rates appropriate?

Recommendation: Yes, FPL's proposed design of the HLFT is appropriate. (Kummer)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. First, FPL's proposed HLFT rates exhibit the same problems with the energy and demand charge described in Issues 160 and 161 which must be corrected. In addition, HLFT rates were designed for higher load factor customers. Second, the average load factors for HLFT customers are about 80% compared to only 64% for GSLDT customers. However, FPL's proposed rates would make HLFT more expensive than GSLDT unless the customer can achieve load factors above 84% for HLFT-2 and over 100% for HLFT-3. This requirement is impractical, and it would result in customers migrating back to Rate GSLDT-2. The HLFT rates should be designed for customers with load factors above 70%. Blending the rates at a 70% load factor reflects the HLFT class's characteristics, and would be consistent with encouraging customers to improve load factor.

FRF: No. FPL's proposed design of the HLFT rates is not appropriate.

SFHHA: No. The company's proposed revenue increases to rate Schedule HLFT for 2010 and 2011 are unreasonable, due to: 1) the use of the company's 12 CP and 1/13th average demand cost-of-service methodology to determine the increase, 2) the failure of the company to use a summer CP cost allocation methodology with a minimum distribution system classification method and 3) the failure of FPL to incorporate gradualism into its recommended rate schedule increases through the use of a 1.5 times average increase limitation to the increase applied to each rate schedule. As proposed by FPL, the HLFT-2 rate would be increased by 58.1%.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL maintains that the rate design is consistent with what was approved by Commission order resolving its 2005 rate case.¹³⁹ (FPL BR 142) Witness Deaton disagreed with witness Pollock's assertion that the HLFT rates were a derivative of the GSLDT rates. (TR 4213) Rather, she notes that it is a rate designed to be attractive to high load factor customers while also providing a time-differentiated price signals. (TR 4198) The HLFT rate was approved by the Commission in Docket No. 050045-EI and FPL has proposed no changes to the rate structure for this class, other than an increase in revenue requirements. (TR 4197)

The rates for the HLFT rates are derived from the unit costs for production, transmission and distribution allocated to the GSD, GSLD-1, and GSLD-2. (EXH 180, MFR E-14, p. 17 of 37, TR 4194) This establishes the unit cost for the HLFT on-peak charge (production, transmission and one-half distribution) and the maximum demand charge (one-half distribution). Once the revenue from the customer charge and demand charges are established, the remaining revenue requirement (less any credits) is recovered through the energy charges. The off-peak energy charge is set at the energy unit costs from the Cost of Service Study (EXH 180, MFR E-6b, p. 3 of 16), with the balance of the revenue requirement recovered through the on-peak energy charge.

Witness Deaton also stated that the HLFT rate was set assuming that customers had at least a 70 percent load factor. (TR 4337)

FIPUG

FIPUG stated that FPL has not properly designed the demand and non-fuel energy charges because the costs do not follow the principle of cost causation in that FPL has underpriced the demand charge and over priced the energy charge. (FIPUG BR 55, TR 2991-2) FIPUG argued that energy rates should not exceed unit costs and that demand charges should be increased and energy charges decreased. FIPUG made this argument for all demand metered classes.

FIPUG also took issue with the load factor used to determine the HLFT rate. Witness Pollock stated that these rates were designed for higher load factor customers and that the average load factor for HLFT customers is 80 percent compared to 64 percent for the GSLDT-2 customers. FIPUG argued that FPL's proposed rates would make HLFT rates more expensive than GSLDT-1 unless the customer can achieve load factors above 84 percent which is impractical. Therefore the HLFT rates should be designed for customer with load factors of at least 70 percent. (BR 56, TR 2993)

¹³⁹ Order No. PSC-05-0592-S-EI, issued October 11, 2005, in Docket No. 050045-EI, In re: Petition for a rate increase by Florida Power & Light Company.

SFHHA

SFHHA's witness did not address this issue in his testimony but SFHHA took a position in opposition to FPL's methodology in its Brief. SFHHA objects to the rate design on three grounds: (1) use of the 12 CP and 1/13th average demand for cost allocation; (2) failure of the utility to use the Summer CP cost allocation with the use of the minimum distribution methodology; and (3) the failure of FPL to limit the increase to any one class to 1.5 times the system average. (SFHHA BR 121)

ANALYSIS

The HLFT rates were approved in FPL's last rate case.¹⁴⁰ The Stipulation approved in that case states that the HLFT rates are designed to achieve a break-even point at a 65 percent load factor.¹⁴¹ FPL has provided the calculations underlying the HLFT rate design, showing the breakeven point is now targeted at 70 percent. (EXH 180, MFR E-14, pp. 14-16) The method used to design the rate is consistent with general ratemaking principles. The customer charge reflects the weighted cost of meters, drops and customer service for the class. The on-peak demand charges recovers the costs of production, transmission and one-half of the distribution costs allocated to the class. The maximum demand charge recovers the remainder of the distribution costs. The off-peak energy charge reflects the energy unit cost from the cost of service study and the on-peak energy charge collects the remainder of the class revenue requirement. (EXH 180, MFR E-14, p. 17 of 37)

FIPUG's Brief alleges that the proposed HLFT rates would make the HLFT rate more expensive than GSLDT, unless the customer can achieve load factors above 84 percent for HLFT-2, and over 100 percent for HLFT-3, which is impractical. FIPUG recommends that the HLFT rate be designed for customers with load factors above 70 percent. (BR 54) Witness Pollock maintains that the HLFT rates are a derivative of the GSLDT rates and that it is essential to maintain a consistent relationship between GSLDT and HLFT to prevent customer migration. (TR 2994)

FIPUG does not cite the source of the data used to arrive at the numbers presented in its Brief (BR 54), supporting the contention that the proposed HLFT factor would result in higher rates for customers than the corresponding GSD rate, except at unrealistically high load factors. Neither did FIPUG cite to any calculations to show that the HLFT rates are not designed for customers with load factors of 70 percent or higher, as stated by witness Deaton. Therefore, staff is unable to verify FIPUG's assertions.

MFR Schedule E-13C presents the proposed billing determinants and rates for each rate class. (EXH 180, MFR E-13c, pp. 26, 28, and 29) Using the billing determinants (kwh and kW demand), the actual load factor for all three HLFT classes is approximately 80 percent. Given that the HLFT is an optional rate, and assuming that customers make intelligent choices about which rate is most cost effective for them, these numbers support FPL's contention that the rate is appropriately designed for customers with load factors of at least 70 percent.

¹⁴⁰ Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.

¹⁴¹ Order No. PSC-05-0902-S-EI, p. 11

Witness Pollock is correct that FPL used the demand costs allocated to the GSD, GSLD-1, GSLD-2 and GSLD-3 (collectively GSD) rate classes to derive the demand charges for the HLFT rates. (EXH 180, MFR E-14, p. 17 of 37) This is appropriate because the capacity needed to serve the HLFT customers is identical to the capacity needed to serve the corresponding GSD classes. Unless the HLFT customer also takes service under a separate tariff, the Commercial Demand Reduction Rider (CDR), he is considered a firm customer, just like other GSD customers. The HLFT rates offer lower energy charges to recognize the higher load factor of customers in that class.

Witness Pollock argues that the energy and demand charges should be the unit charge from the Cost of Service Study (TR 2992) The HLFT rates more closely mirror the rate design proposed by FIPUG in that the on-peak demand charge is higher and the energy charges lower, than the corresponding GSD rates. (EXH 180, MFR Schedule E-13c) The overall methodology for designing time-of-use rates is discussed in Issues 161 and 162. As discussed in those issues, staff believes the methodology used by FPL properly matches costs to rates, keeping in mind rate shock and the impact on both high and low load factor customers within a class.

SFHHA did not address the structure of the HLFT rate in its testimony. In its Brief, it raised issues on cost allocation and the allocation of any increase in revenue requirement. (BR 121) These points are fully addressed in Issues 140 and 141 (Cost of Service) and Issue 142 (allocation of any increase).

FRF took the position in its Brief that FPL's methodology was not correct but provided no arguments to support its position.

CONCLUSION

Witness Deaton states that the HLFT rate was designed at a 70 percent load factor. (TR 4337) This is consistent with the proposal approved in FPL's 2005 rate case. FIPUG presented no documentation or calculations demonstrating that the HLFT rate was not designed as asserted by FPL. Further, FIPUG presented no support for the numbers shown in its Brief, alleging that the proposed design will result in HLFT rates higher than the GSD rates except at unrealistically high load factors. FIPUG's remaining arguments on the design of time-of-use rates in general, including the appropriate method for setting energy and demand charges, are addressed in Issues 161 and 162. Staff therefore recommends that FPL's methodology used to design the HLFT rate is appropriate.

Issue 166: Is FPL's design of the Commercial/Industrial Load Control (CILC) rate appropriate?

Recommendation: Yes. FPL had calculated the CILC rate consistent with Commission Order 22747, using fully allocated base rate costs net of the approved avoided cost credit. (Kummer)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. FPL has assumed an incorrect level of CILC incentive payments in the rate design. FPL calculated the CILC base revenue requirements as the difference between the allocated firm cost of service (which assumed CILC customers receive firm service) and an assumed level of incentive payments. But the incentives embedded in FPL's rate design are much higher than those used to calculate the class' revenue requirements. This created a shortfall which FPL attempts to recover by increasing the non-fuel energy charge. This is why the non-fuel CILC energy charges are higher than unit costs. To correct this problem, FPL should restate the incentive payments to reflect the amounts embedded in the CILC rate design. The revised incentive payments should then be allocated to all customer classes (in the same manner as FPL allocated the estimated payments) in determining class revenue requirements.

FRF: No. FPL's proposed design of the CILC rate is not appropriate.

SFHHA: No. The company's proposed revenue increases to rate Schedule CILC for 2010 and 2011 are unreasonable, due to: 1) the use of the company's 12 CP and 1/13th average demand cost-of-service methodology to determine the increase, 2) the failure of the company to use a summer CP cost allocation methodology with a minimum distribution system classification method and 3) the failure of FPL to incorporate gradualism into its recommended rate schedule increases through the use of a 1.5 times average increase limitation to the increase applied to each rate schedule. As proposed by FPL, the CILC-1D rate would be increased by 58.8%.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL witness Deaton asserts that FPL has properly calculated the CILC rate, pursuant to Order No. Order 18259, which established the CILC rate as a firm program. Witness Deaton stated that the CILC rate was closed to new customers by the Commission due to concerns that it was no longer cost-effective. Increases to the credit proposed by FIPUG would make CILC even less cost-effective. She further states that any changes to the CILC or CDR credits are properly addressed in the DSM goal proceeding to ensure continued cost-effectiveness. (TR 4214-4215)

FIPUG

FIPUG is the only party, other than FPL, which provided testimony on this issue. Witness Pollock alleges that FPL has understated the credit used to design the CILC rate, and therefore has overstated the costs which should be recovered from CILC customers. He further argues that the charges should be set at unit costs to properly reflect the cost to provide service. (TR 2994) A chart presented in witness Pollock's testimony purports to demonstrate that the payments used in the rate design are much higher than those used to calculate the class's base revenue requirements. (TR 2995) He asserts that the chart represents the difference between the allocated firm cost of service and the assumed level of incentive payments to CILC customers. He states that the CILC payments should be restated to reflect the amounts in FPL's rate design.

SFHHA

SFHHA did not provide testimony on this issue but provided a position in its brief, objecting to the CILC rate design on three grounds: (1) use of the 12 CP and 1/13th average demand for cost allocation; (2) failure of the utility to use the Summer CP cost allocation with the use of the minimum distribution methodology; and (3) the failure of FPL to limit the increase to any one class to 1.5 times the system average. (BR 122)

ANALYSIS

FPL's CILC program is a demand side management program. (TR 4224) Unlike similar programs for Progress Energy Florida and Tampa Electric, the revenue requirement used to set the CILC base rates is reduced to recognize the costs avoided by the ability to interrupt CILC load.¹⁴² There is no separate credit. In response to the Public Utility Regulatory Policies Act of 1978 (PURPA), the commission opened a generic docket on the feasibility of implementing load management techniques by electric utilities. In that docket, the Commission cited the PURPA definition of load management as "any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, or other types of interruptible service, energy storage devices and load limiting

¹⁴² Interruptible rates for Progress Energy Florida (Docket No. 090079-EI) and Tampa Electric Company (Docket No. 080317-EI) have a base rate set on fully allocated cost, with a separate credit applied to load subject to interruption.

devices.”¹⁴³ That order further states that a load management technique shall be cost effective if the long run costs savings to the utility of such reductions are likely to exceed the long run costs to the utility associated with the implementation such techniques.¹⁴⁴

PSC Order 18259 approving the initial trial CILC program approved credits on each monthly bill to reflect a reduction in the utility’s coincident peak demand sufficient to avoid construction of a new generating unit.¹⁴⁵ That order goes on to describe that the credit would be based on the cost of the utility’s next avoided generation unit.¹⁴⁶

FPL modified the per-KW credit approach used in the original CILC pilot when it requested approval of a permanent CILC program. The rate was restructured from a flat dollar credit per KW to a design which set charges to reflect the different types of costs incurred to provide service. The base demand charge was divided into three components: maximum demand charge; firm on-peak demand charge; and load control on-peak charge (transmission). The permanent tariff using this rate structure was approved by Order No. 22747.¹⁴⁷ Certain non-rate provisions of the proposed permanent CILC rate schedule were protested then resolved by Order No. 23709 in this docket.

Maximum demand charge. The maximum demand charge consists of distribution costs. Consistent with the method used to design other demand rates, the distribution costs are allocated to the class based on non-coincident KW demand because the distribution system must support the customer’s maximum demand whenever it occurs.

On-peak demand charge. Consistent with all other rate classes, the on-peak demand charge is derived by dividing the demand costs allocated to the class by the firm coincident on-peak demand. Any individual CILC customer may choose to operate on peak, if he desires, and FPL must provide capacity to meet that demand. Therefore, it is appropriate for customers using firm capacity on-peak to pay a proportionate share of those demand costs. The on-peak charge consists of costs associated with production and transmission costs, and is assessed only to KW demand which occurs during the on-peak period. This charge can be avoided by operating off-peak.

Load control on-peak charge. The load control on-peak demand charge recovers the allocated cost of transmission divided by the KW load subject to load control. Order 18259 noted that transmission costs are not likely to be reduced by scattered CILC load reductions. As a result, CILC customers pay a transmission charge on the total demand subject to load control.¹⁴⁸ Without this charge, CILC customers who operate only off-peak would pay nothing for the transmission investment necessary to serve them.

¹⁴³ Order No. 8951-A, issued September 7, 1979, in Docket No. 790594-EI, In re: General Investigation of the feasibility of implementing load management techniques by the electric companies, p. 1.

¹⁴⁴ Order 8951-A, p. 2.

¹⁴⁵ Order No. 18259, issued October 7, 1987, in Docket No. 861403-EG, In re: Petition of Florida Power and Light Company for Authority to Implement a Trial Commercial/Industrial Load Control Project, p1.

¹⁴⁶ Order No. 18259, p. 1.

¹⁴⁷ Order No. 22747, issued March 28, 1990, in Docket No. 891045, In re: Petition of Florida Power & Light Company for approval of a permanent Commercial/Industrial Load Control program eligible for energy conservation cost recovery.

¹⁴⁸ Order No. 18259, p. 3.

All of the components shown on the CILC rate schedule are described in Order No. 22747, and reflect the cost incurred to provide service to CILC customers, based on their usage characteristics. There is no specific credit listed in the tariff; instead the total revenue used to design rates is reduced by the avoided cost, and the resulting rates reflect the cost for the type of service provided. As a result, the CILC customer is only paying for the services he uses.

FPL has continued to calculate the components of the CILC rate according to the method approved in Order 22747. The rates shown on MFR Schedule E-14, page 26 of 37, (EXH 180) are consistent with the costs shown in MFR Schedule E-6b, unit costs for each rate schedule using the requested revenue requirements and Cost of Service Methodology. The total cost of providing service to the CILC class is \$101,734,000 as shown in MFR Schedule E-1, page, Attachment 2, page 1. From that total allocated cost, FPL subtracted the avoided cost savings of (\$19,670,000), which is collected through Energy Conservation Cost Recovery Clause from all customers. Base rates were then designed on a revenue requirement of \$82,064,000. (EXH 180, MFR Schedule E-5, page 1 of 3)

It is not clear how witness Pollock derives the numbers shown in his testimony. (TR 2995) However, it appears that the subsidy he alleges is simply the result of the increase in the base rate costs properly assigned to the class, based on its usage characteristics. The \$30.6 million difference, which witness Pollock calls an improper subsidy, results from the base rate portion of the bill increasing while the avoided cost offset has not. Witness Pollock appears to assume that the avoided cost savings must increase by the same amount as the base rates, thus maintaining the relationship between the credit amount and the total class revenue requirement. There is no provision in the CILC rate design that requires this symmetry. The savings attributable to the CILC program are based on avoided cost. Witness Deaton noted that avoided cost will be reviewed in the Demand Side Management (DSM) proceedings. (TR 4224) If avoided cost, or savings, attributable to the CILC program is increased in another proceeding, it will reduce the revenue requirements used to determine the CILC rates, and rates will correspondingly be reduced.¹⁴⁹ Until the amount of the avoided cost attributable to CILC load changes, however, reducing rates below the approved cost of service is not appropriate. (TR 4224)

SFHHA's objections go not to the CILC rate design but to ancillary decisions which will affect the total revenue requirement assigned to the class. The appropriate cost of service methodology is addressed in Issue 141. The allocation of the increase is addressed in Issue 142. SFHHA's arguments will be addressed in those issues.

CONCLUSION

FPL has properly calculated the CILC base rates, in accordance with Commission Order 22747. The subsidy FIPUG witness Pollock alleges is the result of an increase in the base rates costs, based on the cost of service study, without a commensurate increase in the avoided cost credit reduction to that base rate revenue. There is no requirement that the base rate increase be offset by a higher credit, unless that credit is determined to be cost effective under the DSM

¹⁴⁹ Specific credits for load management programs will be addressed in the implementation phase of Docket No. 080407-EQ, Commission review of numeric conservation goals (Florida Power & Light).

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

proceedings. To arbitrarily increase the avoided cost credit unfairly shifts costs away from CILC customers to other ratepayers. SFHHA's concerns will be addressed in Issues 141 and 142.

Issue 167: Is FPL's Commercial/Industrial Demand Reduction Rider (CDR) credit appropriate?

Recommendation: Yes. The current CDR credit of \$4.68 is part of a tariffed demand reduction program. An appropriateness review of the CDR credit will be conducted during the program approval phase of FPL's numeric conservation goals docket (Docket No. 080407-EG). (K. Lewis, Garl, Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: The CDR credit should be set at least \$5.50/KW to reflect the cost of FPL's next avoided unit.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL stated in its brief that the CDR credits are properly determined in the DSM goals and DSM plan proceedings. (FPL BR 143) FIPUG took the position that the CDR credit should be set to at least \$5.50 per kW to reflect the cost of FPL's next avoided unit. (FIPUG BR 59) No other party has taken a position on this issue.

The Commercial/Industrial Demand Reduction Rider (CDR) credit is available to commercial or industrial customers eligible to participate in this optional load management program offered by FPL. Witness Deaton testified that "[U]nder this rider, customers are billed under their otherwise applicable tariff, but receive a credit per kW of controllable load. Also, load control equipment is installed to provide the utility with direct control over the customer's electrical load." (EXH RBD-5, p. 5 of 10) Witness Deaton also explained that "the CDR credit

Date: December 23, 2009

is a payment or a credit to customers who are willing to declare at least 200 kilowatts of their load as nonfirm and allow it to be interrupted as a load control measure by the company.” (TR 4339)

ANALYSIS

The CDR program was first proposed by FPL in 1999 as part of its demand-side management plan to meet the numeric conservation goals the Commission set for FPL in Order No. PSC-99-1942-FOF-EG. The proposed program included a monthly credit of \$4.75 per kW based upon the difference between firm demand and total demand. The Commission approved the CDR program on May 8, 2000.¹⁵⁰ The Commission again approved the program, including the CDR credit of \$4.75 per kW in 2004 when FPL submitted the conservation plans it was proposing to meet the goals the Commission set in Docket No. 040029-EG.¹⁵¹ The CDR was subsequently reduced to \$4.68 per kW when Gross Receipt Taxes previously embedded in base rates were removed as a result of the settlement agreement accepted in the 2005 Rate Case proceeding.¹⁵²

Only two witnesses, FPL witness Deaton, and FIPUG witness Pollock, provided testimony regarding appropriateness of the CDR. Witness Pollock testified that the CDR credit should be increased from \$4.68 to \$5.50 per kW to reflect the increased cost of new generation and transmission capacity. (TR 2996-2999) The costs for new generation and transmission capacity are reflected in FPL’s most recent Ten Year Site Plan. (EXH 270; BR 60) FIPUG’s brief stated that FPL is projecting significant growth in non-firm load and that this load has been and is projected to be a valuable resource to FPL to serve firm load customers when needed. (FIPUG BR 60) Witness Pollock explained that he arrived at the \$5.50 figure by looking at FPL’s avoided cost in their standard offer filing which showed a capacity need in 2021, projected the revenue requirements from that study and then discounted those requirements back to the period of 2010 to 2012. Witness Pollock testified “I adjusted the credit downward a little bit so that the credit would essentially be the same net present value or a little less than the net present value of the avoided cost of that avoided unit.” (TR 3061, TR 3075-3076)

There was some discussion with regard to whether a CDR credit of \$5.50 would pass the RIM test. In response to a question from FPL counsel about whether he had actually evaluated the CDR credit under the RIM test, witness Pollock agreed that the credit comported with a major element of the test but that he had not actually evaluated it under the RIM test. (TR 3061) Under redirect, witness Pollock explained that “Avoided cost is the biggest input to the RIM test. To the extent that you can provide capacity at a cost cheaper than putting in new capacity in the ground, i.e., the capacity cost that you avoid, so if you can pay somebody a credit less than what it would cost the utility to build a plant, then that’s beneficial to the ratepayers, and that’s what I did to arrive at [\$]5.50.” (TR 3076)

¹⁵⁰ Order No. PSC-00-0915-PAA-EG, issued May 8, 2000, in Docket No. 991788-EG, In re: Approval of Demand-Side Management Plan of Florida Power & Light Company.

¹⁵¹ Order No. PSC-06-0025-FOF-EG, issued January 10, 2006, in Docket No. 040029, In re: Petition for approval of numeric conservation goals by Florida Power & Light Company.

¹⁵² Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.

Witness Deaton provided a description of the CDR in her testimony and stated that no changes are proposed for the CDR in this docket. (TR 4203, 4340) Witness Deaton also provided her opinion that this docket is not the appropriate venue to determine the amount of the CDR credit as it should be taken up, if needed, in the conservation goals proceeding (Docket No. 080407). (TR 4208, 4214, 4340)

Other than the statements described above, there is a limited amount of information in the record regarding the CDR credit.

Staff notes that Florida Power & Light is required to submit estimates of the cost-effectiveness for any existing, new, or modified demand-side conservation programs per Commission Rule 25-17.0021(4)(j), F.A.C., Goals for Electric Utilities. Furthermore, Commission Rule 25-17.008(3), F.A.C. prescribes the cost-effectiveness tests that must be performed by referencing the "Florida Public Service Commission Cost Effectiveness Manual For Demand Side Management Programs and Self-Service Wheeling Proposals" (7-7-91). This manual requires three tests: (1) RIM test, (2) Participant test, and (3) Total Resource Costs test. Staff notes that none of these tests have been performed as part of this docket. However, these tests will be performed for all programs FPL submits to meet the new numeric conservation goals which are being set in Docket No. 080407-EG. Upon issuance of a final order in Docket No. 080407-EG, FPL is required to submit any existing, new or modified programs it has designed to meet the Commission-approved goals. At that time, staff will review the cost-effectiveness of the program, including costs and credits to customers such as the CDR credit. Therefore, the appropriateness of the CDR rider will receive a thorough review and evaluation at that time if FPL chooses to retain the program as part of its portfolio of DSM programs.

CONCLUSION

Customer participation in this demand reduction program is entirely voluntary. FPL is not seeking any changes to the CDR credit in this docket. The appropriate amount for the CDR credit can be addressed by staff at the program implementation phase in the numeric conservation goals docket.¹⁵³ The Commission set new goals for FPL on December 2, 2009. FPL is required to file programs designed to meet the goals the Commission has approved within 90 days following the final order in accordance with Section 366.82(7), F.S. and Rule 25-17.0021(4), F.A.C.

¹⁵³ Docket No. 080407-EG, In re: Commission review of numeric conservation goals (Florida Power & Light Company).

Date: December 23, 2009

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

Recommendation: FPL should set the demand charge equal to the otherwise applicable demand charge for the flat rate schedule. The off-peak charge should be the energy rate at the average system energy component from the cost of service study. The on-peak energy charge shall recover the balance of the class's demand and energy revenue requirement. FPL should also be directed to explore the option of offering a commercial time of use rate with more than two rating periods, and report back to the Commission no later than August 1, 2010 on possible options. (Kummer, Draper)

Position of the Parties

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.

OPC: No position.

AFFIRM: The appropriate method of designing time of use rates is one that produces rates that (1) vary during different time periods and (2) reflect the variance, if any, in the utility's cost of generation and purchasing electricity at the wholesale level. Moreover, the design and implementation of the rate should enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Time of use rates should be designed so as to reflect actual usage costs. They should enable customers to manage their energy needs.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL

FPL maintained that its time-of-use rates are consistent with Commission direction and are designed to be revenue neutral with the otherwise applicable rate available to the customer. (FPL BR 113) Witness Deaton explained that the time-of-use customer charges are set at unit costs, recognizing any increase in cost arising from the time-of-use meters. The demand charge

(where applicable) is set equal to the demand charge for the otherwise applicable rate schedule.¹⁵⁴ The energy charge is split between on-peak and off-peak, based on the class average on-peak usage. The off-peak energy rate is initially set at the energy unit cost and the on-peak rate is initially set at the total cost, including demand charges, then adjustments are made to the on- and off-peak energy charges to achieve revenue neutrality within the rate class. (TR 4335-4336) Revenue neutrality means that an average customer within a class would pay the same amount under a flat rate or a time-of-use rate. (FPL BR 113, TR 4335-4336) FPL described the design of its time-of-use rates in MFR Schedule E-14. (EXH 180, MFR Schedule E-14, Attachment 2 of 3, page 10 of 37) FPL asserted that the rates reflect costs. The customer charge reflects the flat rate customer charge plus the incremental cost associated with a time-of-use meter. To derive the energy charges, FPL started with the energy unit cost, as suggested by FIPUG, then adjusts that number, using the system on- and off-peak energy ratios. The on- and off-peak rates are adjusted to achieve the class's revenue requirement.

The off-peak energy charge is set lower than the on-peak energy charge to encourage energy usage during off-peak periods. (FPL BR 113) As a result, customers benefit primarily if they are able to shift usage to off-peak periods.

AFFIRM

AFFIRM represents a coalition of quick-serve restaurants that have substantially similar electrical usage characteristics. (TR 3338) Witness Klepper stated that AFFIRM members are economically disadvantaged because the pricing alternatives currently available to them do not reflect the economies of scale to FPL that result from the load characteristics of AFFIRM members. (TR 3339) Specifically, AFFIRM maintained that its members' usage differs significantly from other commercial customers. (TR 3339)

Witness Klepper asserted that there are only two rates and one rate rider available from FPL for commercial customers with loads between 20 kW and 500 kW. These rates are GSD-1, GSDD-1, and a Seasonal Demand - Time of Use Rider. (TR 3342) Witness Klepper noted that the seasonal rate is of little use for business which operate year-round, leaving only the GSD-1 and GSDD-1 rate options. (TR 3342)

Although most AFFIRM members will peak during the Company's designated peak hours, exterior lighting is a significant portion of their load. As a result, almost none of the members will peak in the specific hours during which the Company will experience its monthly peaks. As a result, AFFIRM members cause a disproportionately smaller contribution to the Company's monthly peaks, and also use a disproportionately greater percentage of total energy consumption during off-peak periods. (TR 3340) Because of the current limited time-of-use options, Witness Klepper argued that customers, such as AFFIRM members, who wish to become more energy efficient by responding to price signals are denied the realistic opportunity to do. (TR 3344) AFFIRM requested that FPL be directed to develop a new commercial time-of-use rate that would be more effective by providing periodic price signals that would in turn provide an incentive to customers to actively endeavor to control their energy costs. (TR 3344) In its testimony and brief, AFFIRM also suggested that FPL adopt a multi-location rate for

¹⁵⁴ The demand charge applies only to usage on-peak. For example, see Tariff Sheet No. 8.107, MFR Schedule E-14 Attachment No. 1 of 3, page 7 of 51 (EXH 180)

customer who operate businesses under common ownership or control from more than one site. (BR 15)¹⁵⁵

FIPUG

Time of use rates should be designed so as to reflect actual usage costs. They should enable customers to manage their energy needs. (FIPUG BR 61)

ANALYSIS

The PSC first addressed time-of-use rates in 1978 when, under the requirements of Public Utilities Regulatory Policies Act (PURPA), the Commission evaluated the PURPA standard relating to Peak Load Pricing. Order 9523 stated that the main purpose [of peak load pricing] is to promote economic efficiency.¹⁵⁶ In Order 9661, the Commission ordered all investor-owned electric utilities to offer an optional time-of-use rate to all customers.¹⁵⁷ That order further set forth uniform definitions for on- and off- peak billing periods, establishing the two period rating still used today. It states that average incremental costs during on-peak and off-peak hours are used to allocated average fuel costs between on and off-peak periods and the system annual load factor is used to allocated demand-cost components to on-peak and off-peak rating periods.

FPL has calculated demand rates based on demand costs as proposed in the Cost of Service Study. (EXH 180, MFR Schedule E-14, Attachment 2 of 3, page 10 of 37) It proposed to use the same demand charge for both the standard rate and the corresponding time-of-use rate, with the time-of-use rate demand rate only applying to demand occurring in the on-peak period. Customers pay no demand charge for demand occurring in off-peak periods. The composite per unit demand cost for the General Service Demand classes is shown at \$11.95, as noted by witness Pollock. (TR 2992) However, FPL then adjusts this number to arrive at different demand charges for each rate class. The proposed demand charges for each class are shown in MFR Schedule E-13C. (EXH 180, MFR Schedule E-13c, pp. 11, 12, 14, and 15) Based on MFR Schedule E-14, Attachment 2 of 3, page 10 of 37, the unit cost was reduced by \$2.00 across the board for all rate classes. (EXH 180) FPL then made further adjustments to each class for what appears to be the decreasing proportion of distribution costs allocated the large classes, with the GSLDT-3 receiving the largest adjustment to reflect that this class is transmission level only.

¹⁵⁵ The concept of multi-location billing was addressed in testimony (AFFIRM, FPL witness Deaton's rebuttal testimony), and in briefs. However, AFFIRM raised no specific issue in the docket dealing with the concept of conjunctive billing. Conjunctive billing would allow the electric use for multiple locations to qualify for a lower rate than the individual customers would otherwise be qualified for, on a stand alone basis. AFFIRM argues that such a rate should be developed for locations which are part of a chain in order to benefit from the determination of peak monthly demand on an aggregated coincident basis, rather than having hundreds of business sites under common ownership and control paying for demand as the sum of the non-coincident loads of all such sites. (BR16) FPL states that AFFIRM's proposal would violate Commission Rule 25-6.102, Florida Administrative Code, and section 366.07, Florida Statutes prohibiting unjustly discriminatory or preferential pricing. It would discriminate against similarly situated customers who are not part of a corporate chain. (TR 4219-4220)

¹⁵⁶ Order No. 9385, issued May 20, 1980, in Docket No. 790793-EU, In re: Show Cause order to electric utilities concerning peak load pricing for general service customers, and Docket No. 790859-EU, In re: General investigation into electric rate structures to see whether they tend to promote the conservation of energy.

¹⁵⁷ Order No. 9661, issued November 26, 1980, in Docket No. 790793-EU, In re: Show Cause order to electric utilities concerning peak load pricing for general service customers, and Docket No. 790859-EU, In re: General investigation into electric rate structures to see whether they tend to promote the conservation of energy.

Staff agrees with witness Pollock that demand charges should reflect demand costs and energy charges should reflect energy costs. However, consideration of rate stability and rate shock are also important considerations in rate design. Increases in the demand charge impact low load factor customers to a greater extent than high load factor customers because they are less able to offset the higher demand costs with lower energy costs and are thus less able to affect their total bill. FPL's demand rates have not changed significantly in over twenty years and increasing demand charges to unit costs in one step might be too drastic and could disproportionately affect low load factor customers. Staff agrees with the method used by FPL to set demand rates for the GSD classes.

As noted above, the purpose of time-of-use rates is to encourage customers to use capacity during off-peak hours. (TR 4336) The differential between the on- and off-peak energy charge should establish a meaningful pricing signal. For all but the largest GSD class (GSLDT-3) FPL has reduced the differential between on- and off-peak rates, compared to existing rates. FPL begins its calculations of the energy charge with the energy unit cost from the Cost of Service Study. (EXH 180, MFR Schedule E-6b, p. 8 of 16) From there, FPL adjusted the unit cost, using the class average on- and off-peak kWh ratios and establishing a break even rate with the otherwise applicable flat rate.

Similar to the design of the demand rates, FPL started with the energy unit cost for the class as described above, adjusting the calculated per kWh costs for both demand and energy. (EXH 180, MFR Schedule E-14, Attachment 2 of 3, p. 10) The end result is a reduction in the on-peak to off-peak ratio compared to existing rates. This makes time-of-use rates less advantageous to both customers and FPL. The customer saves less by shifting load to off-peak periods and loses less by operating during peak periods. If less load is shifted, any conservation impacts of reduced on peak demand of a time-of-use rate are diminished.

Due to the lack of explanation of how it arrived at the new rates, staff does not believe that FPL has provided adequate support for decreasing the differential between on- and off-peak energy rates. In Docket No. 910890-EI, the Commission approved a formula for calculating time-of-use energy rates which sets the off-peak rate at the average system energy component from the cost of service study. In addition, that order stated that the on-peak charge will then be the result of a break even calculation with the standard rate, based on the class's (or combined classes') on-peak and off-peak energy consumption.¹⁵⁸ There is no evidence in this docket on what the impact would be for applying the strict formula used in the 910890-EI docket. However, staff believes it is reasonable, as a proxy, to maintain the current differential between on- and off-peak ratios to prevent unexpected impacts on existing time-of-use customers who have adapted their usage to this ratio. This results in differentials close to those advocated by FIPUG. Reducing the differential could negate investments in energy efficiency measures designed to move load off peak.

AFFIRM witness Klepper stated that AFFIRM members have a limited ability to respond to price signals because of the limited rate options available to them. (TR 3361) Witness Klepper also noted that most of AFFIRM's members operate during system peak periods (TR 3340) but use disproportionately lesser amount of energy during FPL's defined on-peak periods

¹⁵⁸ Order No. PSC 92-1198-FOF-EI, issued October 22, 1992, in Docket No. 910890-EI, In re: Petition for a Rate Increase by Florida Power Corporation.

and a disproportionately greater amount of energy during FPL's defined off-peak periods, compared to other commercial and industrial customers. (AFFIRM BR 5) Witness Deaton stated that, contrary to AFFIRM's contention that its customers are limited to the GSD and GSDT rate schedules, FPL offers many options, such as the high load factor time-of-use rate that may be beneficial. Witness Deaton contended that AFFIRM's members may not have adequately explored the options available to them, prior to requesting that FPL design a new rate. (TR 4224)

AFFIRM did not propose a specific rate design, nor was there any discussion of impacts on other customers of offering a new rate designed as AFFIRM would desire. In order to design new rate, FPL would need to identify the types of customers to be targeted, and determine what the specific load and cost characteristics of the proposed new sub-group of customers. Assuming that existing customers would leave existing classes to take advantage of any new rate, FPL would also have to estimate the impact on existing rate classes (migration). (TR 4338-4339) None of that information was presented in this docket. As a result, staff cannot recommend a specific new rate as AFFIRM has requested. Witness Deaton did state that FPL is willing to work with AFFIRM, or any of its customers to explore the benefits of the existing HLFT rates. (TR 4224) In addition, staff recommends that FPL work with AFFIRM and its members to explore other options, such as multi-period pricing which would address at least some of AFFIRM's concerns. (TR 3341) This is consistent with the federal legislation cited by AFFIRM in its Brief. (AFFIRM BR 3-4)

CONCLUSION

Staff recommends that the Commission accept FPL's design of the time-of-use demand charges as appropriate. However, staff recommends that the energy charges be designed so as to maintain the current ratio between on- and off-peak energy charges to maintain the current incentive to use energy off peak. In addition, staff believes there is insufficient evidence in this docket to require FPL to design a new time-of-use rate for commercial customers. Staff recommends that FPL work with AFFIRM, and any other parties who wish to participate, to design a new time-of-use option to address the concerns raised by AFFIRM, and report back to the Commission no later than August 1, 2010, on the progress of such discussions.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

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?

Recommendation: FPL should be required to file with the Commission a study evaluating the merits of a prepayment option in lieu of monthly billing no later than March 1, 2010. The results of the study should be brought before the Commission at a subsequent agenda conference. Interested persons should have a right to address the study and any recommendations at that time. (Draper)

Position of the Parties

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.

OPC: Yes, FPL should be required to provide a study evaluating the merits of a prepayment option in lieu of monthly billing within a month of the agenda conference. Interested persons should have a right to address the study and any recommendations from the study in a separate, subsequent proceeding and agenda conference as a PAA matter.

AFFIRM: No position.

AG: Yes. Adopt OPC's position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: Yes.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL stated in its brief that FPL is willing to evaluating the merits of a prepayment option for government and/or business customers. FPL further stated that 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. FPL indicated that such a 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. (FPL BR 143)

OPC stated in its brief that at the Ft. Myers service hearing Mr. Balogh and Mr. Morgan proposed that customers should be allowed to prepay their electric bills and receive a discount on the prepayment equal to the company's overall cost of capital. (OPC BR 120) OPC explained that, in other words, customers would provide financing to FPL. (OPC BR 120) OPC stated that other large usage customers supported the idea at the Ft. Myers service hearing. (OPC BR 120) Based on the customer testimony, OPC concluded that FPL should be required to provide a study evaluating the merits of a prepayment option in lieu of monthly billing within a month of the agenda conferences in this case. (OPC BR 120)

The AG and FIPUG support OPC's position. (AG BR 25; FIPUG BR 61) The other parties to this case took no position on this issue.

ANALYSIS

This issue resulted from customer testimony at the Ft. Myers service hearing. Witness Santos testified during the hearing that several customers were interested in a prepayment plan. (TR 1591-1592) Witness Santos testified that the customers are wanting to pay an estimated yearly amount of their electric bill a year early, and have FPL give them a discount based on FPL's cost of capital. (TR 1594) The customers, would then in turn, borrow money, at a low cost to them, and thus save money. (TR 1594)

Witness Santos testified that FPL has formed a team to evaluate the proposal. (TR 1592) Witness Santos explained that FPL is very willing to evaluate the proposal and come back to the Commission early next year. (TR 1594) Witness Santos stated that FPL has to make sure that none of the other customers are jeopardized by the prepayment plan option and that FPL needs to establish what the appropriate discount rate is. (TR 1594) In addition, FPL may have to change the billing system. (TR 1594-1595) Upon cross examination, Witness Santos stated the FPL would get back to the Commission by the second quarter of 2010. (TR 1595)

There appears to be no dispute regarding this issue, other than the timing of FPL's study. OPC, in its brief, stated that FPL should be required to provide a study evaluating the merits of a prepayment option in lieu of monthly billing within a month of the agenda conferences in this case. The concept of a prepayment plan first surfaced at the Ft. Myers service hearing, which took place on June 19, 2009. OPC stated that while FPL has created a team to look at the issue, FPL has not done much else and that the Commission should require more from FPL. (OPC BR 120)

Witness Santos also stated that, prior to the Ft. Myers service hearing, a customer has had communications with FPL regarding a pre-payment plan. (TR 1592) Staff agrees with OPC that FPL has had time to evaluate the proposal and should be required to provide a study to the Commission evaluating the merits of a prepayment option in lieu of monthly billing within a month of the rates agenda conference. Under the current schedule, the rates agenda is scheduled for January 29, 2010, making the study due no later than March 1, 2010.

Staff anticipates that any prepayment option would be codified as a tariff, similar to the budget billing option. If the initial study results in a proposed tariff, the tariff would be brought before the Commission for approval under normal tariff procedure, and parties could participate at the Agenda Conference at which the tariff will be discussed. If the study does not result in a

proposed tariff, the study itself will be brought back before the Commission to discuss what further actions, if any, are appropriate on this issue. Staff envisions that the study filed with the Commission would be a collaborative effort of all interested parties. In addition, interested persons should have a right to address the study and any recommendation from the study when the matter is again addressed by the Commission at a subsequent agenda conference.

CONCLUSION

FPL should be required to provide to the Commission a study evaluating the merits of a prepayment option in lieu of monthly billing no later than March 1, 2010. The results of the study will be brought before the Commission at a subsequent Agenda Conference. Interested persons should have a right to address the study and any recommendations at that time.

Docket Nos. 080677-EI, 090130-EI

Date: December 23, 2009

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

Ruling: This issue references legal standards established by the legislature in Chapter 366, F.S. and permeates the issues in the docket.

Date: December 23, 2009

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

Recommendation: The revised rates and charges should become effective for meter readings taken on or after 30 days following the date of the Commission vote approving the rates and charges which, under the current schedule, would mean for meter readings taken on or after March 1, 2010. (Kummer, Draper)

Position of the Parties

FPL: No position.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis: This issue is shown as stipulated in the prehearing order of this docket.¹⁵⁹ However, this issue was stipulated under the original schedule for this case, and the prehearing order reflects an effective date on and after the first cycle day of January, 2010. In Order No. PSC-09-0753-PCO-EI, issued November 16, 2009, the Commission postponed its final decision in this case. The rates agenda is currently scheduled for the January 29, 2010, Agenda Conference.

The revised rates and charges should become effective for meter readings taken on or after 30 days following the date of the Commission vote approving the rates and charges which, under the current schedule, would mean for meter readings taken on or after March 1, 2010.

¹⁵⁹ Order No. PCS-09-0573-PHO-EI, issued August 21, 2009.

Date: December 23, 2009

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?

Recommendation: No. Staff recommends that FPL's proposal to transfer revenue, expenses and investments associated with nuclear uprates from base rates to the NCRC be approved. (Prestwood)

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

Position of the Parties

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.

OPC: No. These issues should not be addressed in this docket.

AFFIRM: No position.

AG: No position.

AIF: Yes. AIF supports FPL's position that the nuclear uprate additions must be recovered from customers and should be recovered through an adjustment in the base rates.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No. Agree with OPC. These issues should not be addressed in this docket.

FRF: No. Agree with OPC.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL witness Ousdahl testified that:

Nuclear Uprates - As previously discussed all clause revenue and expenses associated with the nuclear uprate projects are identified and removed from base revenue requirements consideration. Specifically, during the Test Year and Subsequent Year in this filing, we must reflect the determination of the optimal recovery mechanism for the nuclear uprates, all of which will go into service during the 2010, 2011, and 2012 outages. As already discussed, FPL is including its in-service revenue requirements related to nuclear uprates with its NCR filings. Therefore, FPL has removed all amounts associated with nuclear uprates from the Test and Subsequent Years through this company adjustment.

(TR 3649)

No other party presented testimony on this issue.

ANALYSIS

In Order No. PSC-09-0783-FOF-EI, issued on November 19, 2009, the Commission approved FPL's Nuclear Cost Recovery Clause amounts for 2010.¹⁶⁰ All costs that FPL removed from its base rate revenue requirements were allowed in the NCRC for 2010. FPL's used the same assumptions for 2010 and 2011 to determine what cost to remove from base rates.

CONCLUSION

Staff recommends that FPL's proposal to transfer revenue, expenses and investments associated with nuclear uprates from base rates to the NCRC be approved.

A. For the 2010 projected test year?

Staff recommends no further adjustments related to this issue for the 2010 test year.

B. For the 2011 subsequent projected test year?

If applicable, staff recommends no further adjustments related to this issue for the 2011 subsequent projected test year.

¹⁶⁰ Order No. PSC-09-0783-FOF-EI, issued on November 19, 2009, in Docket No. 090009-EI, In re: Nuclear cost recovery clause.

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

Recommendation: Yes, FPL should evaluate the merits of an LED street lighting alternative and provide the results of its pilot program to the Commission no later than April 1, 2010. (Draper)

Position of the Parties

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.

OPC: Yes, FPL should be required to provide a study evaluating the merits of an LED street lighting alternative within a month of the conclusion of the agenda conferences in this case. Interested persons should have a right to address the study and any recommendations from the study either in a workshop or in a separate, subsequent proceeding and agenda conference as a PAA matter.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: No position.

SFHHA: No position.

Staff Analysis:

PARTIES' ARGUMENTS

FPL stated in its brief that FPL is currently monitoring an LED street light pilot program at its headquarters and that FPL will provide the results of the program and future plans to the Commission by June 1, 2010. (FPL BR 144)

OPC stated that FPL should be required to provide a study evaluating the merits of an LED street lighting alternative within a month of the conclusion of the agenda conference in this case. (OPC BR 121)

ANALYSIS

This issue arose from testimony at the Plantation service hearing. OPC explained in its brief that Lauderhill Mayor Richard Kaplan testified that his city received an energy block grant fund of \$595,200 from the federal government to reduce energy consumption. Federal regulations governing use of the funds place a high priority on replacing conventional street lights with LED lights; however, under the existing tariff with FPL, the city would continue to pay the same rate even if it replaced existing lights with LED lights. According to Mayor Kaplan, energy usage can be reduced from 40 percent to 60 percent through the use of LED street lighting. Mayor Kaplan requested the Commission look at the issue because of the difficulty he encountered trying to work with FPL on conservation programs. (OPC BR 121)

During cross examination by OPC, FPL witness Spoor testified that it is his understanding that the energy consumption of the LED lights is less than the traditional light that is offered right now. (TR 2216) However, witness Spoor added, that LED lights are a newer technology, and that is why FPL is piloting them in the corporate parking lot. (TR 2216, 2221) Witness Spoor stated that the pilot began in March of this year, and FPL will have to run the pilot for a year to understand everything about this new technology. (TR 2216-2217) Witness Spoor also stated that the big key that FPL is looking at in this pilot is to understand how this new technology will function in high humidity, lightning, and rain. (TR 2218-2219, 2222)

CONCLUSION

There seems to be no dispute on this issue other than when FPL should be required to produce a report to the Commission. FPL stated in its brief that FPL would file the results of the pilot program by June 1, 2010. (FPL BR 144) OPC stated in its brief that FPL should be required to provide a study with a month of the conclusion of the agenda conference, which would be by March 1, 2010. Since the City of Lauderhill and possibly other cities have an opportunity to save energy usage with LED lights, staff agrees with OPC that FPL should provide the study in timely fashion. However, due to the possibly complex and technical nature of the performance of LED lights in the Florida environment, staff believes that FPL should be given adequate time to analyze the results of the pilot program. Staff therefore recommends a due date of the study by April 1, 2010, as a compromise to address both FPL's and OPC's arguments as to when the study should be filed. Once the study has been filed, staff will review the results. If FPL files a new tariff, or indicates that it plans to file a new tariff, the matter will be handled in the normal manner of tariff filings. If FPL indicates that its results do not merit a new tariff, staff will bring a recommendation back to the Commission on what further actions, if any, FPL should take on this issue.

Issue 174: Intentionally Blank

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

Ruling: This issue is inappropriate for inclusion in this case. The Commission's decision on the DSM Goals Docket will not be made until after the record for this docket has been closed.

Issue 176: Should FPL be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and book and records which will be required as a result of the Commission's findings in this rate case? (Category 2 Stipulation)

Approved Stipulation: Yes.

Date: December 23, 2009

Issue 177: Should this docket be closed?

Recommendation: The docket should be closed after the time for filing an appeal has run.
(Bennett)

Position of the Parties

FPL: No position.

OPC: No position.

AFFIRM: No position.

AG: No position.

AIF: No position.

SOUTH DAYTONA: No position.

FEA: No position.

FIPUG: No position.

FRF: Yes, after the entry of a final order reducing FPL's base rate charges to reflect the reduction in FPL's revenue requirements of \$342 Million per year, as established by the testimony of the Citizens' and other Consumers' witnesses, this docket should be closed.

SFHHA: No position.

Staff Analysis: The docket should be closed 32 days after issuance of the order, to allow the time for filing an appeal to run.

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
13-MONTH AVERAGE RATE BASE
DECEMBER 2010 TEST YEAR

Issue	Adjusted per Company	Plant in Service	Accumulated Depreciation	Net Plant in Service	CWIP	Plant Held for Future Use	Nuclear Fuel - No AFUDC (Net)	Net Plant	Working Capital	Total Rate Base
		28,288,080,000	(12,590,521,000)	15,697,559,000	707,530,000	74,502,000	374,733,000	16,854,324,000	209,262,000	17,063,586,000
No. Staff Adjustments:										
14	WCEC 3 - No GBRA	0	0	0	0	0	0	0	0	0
15	Transmission Investments and Costs	(386,896,000)	144,299,000	(242,597,000)	(18,623,000)	(4,200,000)	0	(265,420,000)	3,700,000	(261,720,000)
16	Jurisdictional Separation	0	0	0	0	0	0	0	0	0
42	Fossil Dismantlement Accrual	0	(1,320,284)	(1,320,284)	0	0	0	(1,320,284)	0	(1,320,284)
46	Cost Recovery Clause Over-Recovery	0	0	0	0	0	0	0	(101,971,000)	(101,971,000)
47	Advanced Metering Infrastructure	0	0	0	0	0	0	0	0	0
50	Plant in Service Level	(785,187,189)	460,387,189	(324,800,000)	0	0	0	(324,800,000)	0	(324,800,000)
51	Accumulated Depreciation	0	429,018,500	429,018,500	0	0	0	429,018,500	0	429,018,500
52	Florida EnergySecure Line	0	0	0	0	0	0	0	0	0
53-S	ECRC Capital Items	0	0	0	0	0	0	0	0	0
55	Construction Work in Progress	0	0	0	(1,264,000)	0	0	(1,264,000)	0	(1,264,000)
56	Property Held for Future Use	0	0	0	0	0	0	0	0	0
57-S	Fuel Inventories	0	0	0	0	0	0	0	0	0
58	Nuclear End of Life and Last Core	0	0	0	0	0	0	0	0	0
59	Nuclear Fuel in Rate Base	0	0	0	0	0	0	0	0	0
60	Nuclear Fuel Level	0	0	0	0	0	(3,771,000)	(3,771,000)	0	(3,771,000)
61	Glades Power Park Amortization	0	0	0	0	0	0	0	0	0
62	Working Capital Level	0	0	0	0	0	0	0	4,078,000	4,078,000
63	Total Rate Base	0	0	0	0	0	0	0	0	0
83	SJRPP Transfer to CCRC	0	0	0	0	0	0	0	0	0
94	Aviation Costs	(53,268,205)	27,853,907	(25,414,298)	0	0	0	(25,414,298)	0	(25,414,298)
108	Department of Energy Settlement	(25,866,000)	252,000	(25,614,000)	(828,000)	0	0	(26,442,000)	0	(26,442,000)
120	Storm Damage Reserve	0	0	0	0	0	0	0	0	0
122	Rate Case Expense	0	0	0	0	0	0	0	(2,948,000)	(2,948,000)
173	Nuclear Upgrades	0	0	0	0	0	0	0	0	0
---	Total Staff Adjustments	(1,251,217,394)	1,060,490,312	(190,727,082)	(20,715,000)	(4,200,000)	(3,771,000)	(219,413,082)	(97,141,000)	(316,554,082)
63	Fall Out - Staff Adjusted Rate Base	27,036,862,606	(11,530,030,688)	15,506,831,918	686,815,000	70,302,000	370,962,000	16,634,910,918	112,121,000	16,747,031,918

Date: December 23, 2009

SCHEDULE 1B - 2011 TEST YEAR

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
13-MONTH AVERAGE RATE BASE
DECEMBER 2011 TEST YEAR

Issue	Adjusted per Company	Plant in Service	Accumulated Depreciation	Net Plant in Service	CWIP	Plant Held for Future Use	Nuclear Fuel - No AFUDC (Net)	Net Plant	Working Capital	Total Rate Base
No.	Staff Adjustments:	29,599,965,000	(13,306,984,000)	16,292,981,000	772,484,000	71,452,000	408,125,000	17,545,042,000	335,360,000	17,880,402,000
14	WCEC 3 - No GBRA	456,830,000	(8,229,000)	448,601,000	0	0	0	448,601,000	0	448,601,000
15	Transmission Investments and Costs	(410,264,000)	154,424,000	(255,840,000)	(30,829,000)	(3,934,000)	0	(290,603,000)	3,809,000	(286,794,000)
16	Jurisdictional Separation	0	0	0	0	0	0	0	0	0
42	Fossil Dismantlement Accrual	0	(3,961,265)	(3,961,265)	0	0	0	(3,961,265)	0	(3,961,265)
46	Cost Recovery Clause Over-Recovery	0	0	0	0	0	0	0	(45,644,000)	(45,644,000)
47	Advanced Metering Infrastructure	0	0	0	0	0	0	0	0	0
50	Plant in Service Level	(821,700,189)	460,387,189	(361,313,000)	0	0	0	(361,313,000)	0	(361,313,000)
51	Accumulated Depreciation	0	669,554,000	669,554,000	0	0	0	669,554,000	0	669,554,000
52	Florida EnergySecure Line	0	0	0	0	0	0	0	0	0
53-S	ECRC Capital Items	0	0	0	0	0	0	0	0	0
55	Construction Work in Progress	0	0	0	28,693,000	0	0	28,693,000	0	28,693,000
56	Property Held for Future Use	0	0	0	0	0	0	0	0	0
57-S	Fuel Inventories	0	0	0	0	0	0	0	0	0
58	Nuclear End of Life and Last Core	0	0	0	0	0	0	0	0	0
59	Nuclear Fuel in Rate Base	0	0	0	0	0	0	0	0	0
60	Nuclear Fuel Level	0	0	0	0	0	(3,791,000)	(3,791,000)	0	(3,791,000)
61	Glades Power Park Amortization	0	0	0	0	0	0	0	0	0
62	Working Capital Level	0	0	0	0	0	0	0	(9,092,000)	(9,092,000)
63	Total Rate Base	0	0	0	0	0	0	0	0	0
83	SJRPP Transfer to CCRC	0	0	0	0	0	0	0	0	0
94	Aviation Costs	(62,126,176)	28,809,341	(33,316,835)	0	0	0	(33,316,835)	0	(33,316,835)
108	Department of Energy Settlement	(52,713,000)	1,516,000	(51,197,000)	(1,375,000)	0	0	(52,572,000)	0	(52,572,000)
120	Storm Damage Reserve	0	0	0	0	0	0	0	0	0
122	Rate Case Expense	0	0	0	0	0	0	0	(1,829,000)	(1,829,000)
173	Nuclear Upgrades	0	0	0	0	0	0	0	0	0
—	Total Staff Adjustments	(889,973,365)	1,302,500,265	412,526,900	(3,511,000)	(3,934,000)	(3,791,000)	401,290,900	(52,756,000)	348,534,900
63	Fall Out - Staff Adjusted Rate Base	28,709,991,635	(12,004,483,735)	16,705,507,900	768,973,000	67,518,000	404,334,000	17,946,332,900	282,604,000	18,228,936,900

SCHEDULE 2A 2010 TEST YEAR

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
13-MONTH AVERAGE CAPITAL STRUCTURE
DECEMBER 2010 TEST YEAR

Company As Filed									
Amount	Ratio	Cost	Weighted	Ratio	Cost	Weighted	Ratio	Cost	Weighted
(\$)									
Common Equity	47.93%	12.50%	5.99%	47.00%	12.50%	5.99%	47.00%	12.50%	5.99%
Long-term Debt	31.52%	2.96%	0.00%	31.57%	2.96%	0.00%	31.57%	2.96%	0.00%
Short-term Debt	0.95%	0.00%	0.00%	0.93%	0.00%	0.00%	0.93%	0.00%	0.00%
Preferred Stock	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Customer Deposits	3.31%	0.20%	0.00%	3.24%	0.20%	0.00%	3.24%	0.20%	0.00%
Deferred Income Taxes	15.96%	0.00%	0.00%	15.86%	0.00%	0.00%	15.86%	0.00%	0.00%
Tax Credits - Weighted Cost	0.33%	9.74%	0.03%	0.03%	9.74%	0.03%	0.03%	9.74%	0.03%
Total	100.00%	100.00%	8.00%	100.00%	100.00%	8.00%	100.00%	100.00%	8.00%
17,063,586,000				16,747,031,918				16,747,031,918	
59.62%				59.12%				59.12%	
Staff Adjusted									
Amount	Specific	Adjusted	Ratio	Pro Rate	Adjusted	Staff	Ratio	Cost	Weighted
(\$)									
Common Equity	47.93%	12.50%	5.99%	47.00%	12.50%	5.99%	47.00%	12.50%	5.99%
Long-term Debt	31.52%	2.96%	0.00%	31.57%	2.96%	0.00%	31.57%	2.96%	0.00%
Short-term Debt	0.95%	0.00%	0.00%	0.93%	0.00%	0.00%	0.93%	0.00%	0.00%
Preferred Stock	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Customer Deposits	3.31%	0.20%	0.00%	3.24%	0.20%	0.00%	3.24%	0.20%	0.00%
Deferred Income Taxes	15.96%	0.00%	0.00%	15.86%	0.00%	0.00%	15.86%	0.00%	0.00%
Tax Credits - Weighted Cost	0.33%	9.74%	0.03%	0.03%	9.74%	0.03%	0.03%	9.74%	0.03%
Total	100.00%	100.00%	8.00%	100.00%	100.00%	8.00%	100.00%	100.00%	8.00%
17,063,586,000				16,747,031,918				16,747,031,918	
59.62%				59.12%				59.12%	
Interest Synchroization									
Adjustment	Cost Rate	Interest Exp.	Tax Rate	Effect on	Adjustment	Cost Rate	Interest Exp.	Tax Rate	Effect on
(\$)									
Long-term Debt	5.49%	(5,027,632)	38.575%	1,939,409	Long-term Debt	5.49%	(5,027,632)	38.575%	1,939,409
Short-term Debt	2.11%	(129,108)	38.575%	49,804	Short-term Debt	2.11%	(129,108)	38.575%	49,804
Customer Deposits	5.98%	(1,270,812)	38.575%	490,216	Customer Deposits	5.98%	(1,270,812)	38.575%	490,216
Tax Credits - Weighted Cost	8.64%	(4,453,844)	38.575%	1,717,993	Tax Credits - Weighted Cost	8.64%	(4,453,844)	38.575%	1,717,993
Total				2,479,428	Total				2,479,428
59.62%				59.12%	59.62%				59.12%
Dollor Amount Change									
Long-term Debt	5.377,787,000	(3,226,672)	38.575%	1,244,689	Long-term Debt	5.377,787,000	(3,226,672)	38.575%	1,244,689
Short-term Debt	161,857,000	(1,375,785)	38.575%	530,709	Short-term Debt	161,857,000	(1,375,785)	38.575%	530,709
Tax Credits - Weighted Cost	56,983,000	(628,710)	38.575%	242,525	Tax Credits - Weighted Cost	56,983,000	(628,710)	38.575%	242,525
Total				4,497,351	Total				4,497,351
59.62%				59.12%	59.62%				59.12%
Equity Ratio									
Common Equity	47.93%	12.50%	5.99%	47.00%	Common Equity	47.93%	12.50%	5.99%	47.00%
Long-term Debt	31.52%	2.96%	0.00%	31.57%	Long-term Debt	31.52%	2.96%	0.00%	31.57%
Short-term Debt	0.95%	0.00%	0.00%	0.93%	Short-term Debt	0.95%	0.00%	0.00%	0.93%
Preferred Stock	0.00%	0.00%	0.00%	0.00%	Preferred Stock	0.00%	0.00%	0.00%	0.00%
Customer Deposits	3.31%	0.20%	0.00%	3.24%	Customer Deposits	3.31%	0.20%	0.00%	3.24%
Deferred Income Taxes	15.96%	0.00%	0.00%	15.86%	Deferred Income Taxes	15.96%	0.00%	0.00%	15.86%
Tax Credits - Weighted Cost	0.33%	9.74%	0.03%	0.03%	Tax Credits - Weighted Cost	0.33%	9.74%	0.03%	0.03%
Total	100.00%	100.00%	8.00%	100.00%	Total	100.00%	100.00%	8.00%	100.00%
17,063,586,000				16,747,031,918	17,063,586,000				16,747,031,918
59.62%				59.12%	59.62%				59.12%

Date: December 23, 2009

SCHEDULE 2B 2011 TEST YEAR

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
13-MONTH AVERAGE CAPITAL STRUCTURE
DECEMBER 2011 TEST YEAR

<u>Company As Filed</u>	(\$) Amount	Ratio	Cost Rate	Weighted Cost
Common Equity	8,547,017,000	47.80%	12.50%	5.98%
Long-term Debt	5,888,206,000	32.93%	5.81%	1.91%
Short-term Debt	70,127,000	0.39%	4.61%	0.02%
Preferred Stock	0	0.00%	0.00%	0.00%
Customer Deposits	558,660,000	3.12%	5.98%	0.19%
Deferred Income Taxes	2,655,102,000	14.85%	0.00%	0.00%
Tax Credits - Weighted Cost	161,290,000	0.90%	9.77%	0.09%
Total	17,880,402,000	100.00%		8.18%

Equity Ratio 58.92%

<u>Staff Adjusted</u>	(\$) Amount	(\$) Specific Adjustments	(\$) Adjusted Total	Ratio	(\$) Pro Rata Adjustments	(\$) Staff Adjusted	Ratio	Cost Rate	Weighted Cost
Common Equity	8,547,017,000	(247,416,000)	8,299,601,000	47.42%	344,686,231	8,644,287,231	47.42%	10.75%	5.10%
Long-term Debt	5,888,206,000	(70,709,000)	5,817,497,000	33.24%	241,603,315	6,059,100,315	33.24%	5.65%	1.88%
Short-term Debt	70,127,000	(2,039,000)	68,088,000	0.39%	2,827,728	70,915,728	0.39%	3.51%	0.01%
Preferred Stock	0	0	0	0.00%	0	0	0.00%	0.00%	0.00%
Customer Deposits	558,660,000	(16,148,000)	542,512,000	3.10%	22,530,772	565,042,772	3.10%	5.98%	0.19%
Deferred Income Taxes	2,655,102,000	116,786,000	2,771,888,000	15.84%	115,117,778	2,887,005,778	15.84%	0.00%	0.00%
Tax Credits - Weighted Cost	161,290,000	(158,808,000)	2,482,000	0.01%	103,079	2,585,079	0.01%	8.65%	0.00%
Total	17,880,402,000	(378,334,000)	17,502,068,000	100.00%	726,668,900	18,228,936,900	100.00%		7.18%

Equity Ratio 58.92%

58.51%

<u>Interest Synchronization</u>	(\$) Adjustment Amount	Cost Rate	(\$) Effect on Interest Exp.	(\$) Effect on Income Tax
<u>Dollar Amount Change</u>				
Long-term Debt	170,894,315	5.65%	9,655,529	38.575%
Short-term Debt	788,726	3.51%	27,684	38.575%
Customer Deposits	6,382,772	5.98%	381,690	38.575%
Tax Credits - Weighted Cost	(158,704,921)	8.65%	(13,725,353)	38.575%
				<u>(3,882,536)</u>

<u>Cost Rate Change</u>				
Long-term Debt	5,888,206,000	-0.16%	(9,421,130)	38.575%
Short-term Debt	70,127,000	-1.10%	(771,397)	38.575%
Tax Credits - Weighted Cost	161,290,000	-1.12%	(1,809,113)	38.575%
				<u>4,629,633</u>

TOTAL 747,096

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
NET OPERATING INCOME
DECEMBER 2010 TEST YEAR

Issue	Adjusted per Company	Operating Revenues	O&M - Fuel & Purchased Power	O&M Other	Depreciation and Amortization	Taxes Other Than Income	Total Income Taxes and ITCs	(Gain)/Loss on Disposal of Plant	Total Operating Expenses	Net Operating Income
No.	Staff Adjustments	4,114,727,000	27,505,000	1,694,367,000	1,074,265,000	350,370,000	243,338,000	(1,002,000)	3,388,844,000	725,883,000
3	2010 Customer, kWh & kW Forecast	0	0	0	0	0	0	0	0	0
7	2011 Customer, kWh & kW Forecast	0	0	0	0	0	0	0	0	0
14	WCEC 3 - No GBRA	0	0	0	0	0	0	0	0	0
15	Transmission Investments and Costs	(33,639,000)	0	(10,462,000)	(10,335,000)	(4,918,000)	(3,056,683)	0	(28,771,683)	(4,867,317)
16	Jurisdictional Separation	0	0	0	0	0	0	0	0	0
58	Nuclear End of Life and Last Core	0	0	(6,137,000)	0	0	2,367,348	0	(3,769,652)	3,769,652
61	Glades Power Park Amortization	0	0	0	0	0	0	0	0	0
82	Customer Growth and Inflation Factors	0	0	0	0	0	0	0	0	0
83	SJRPP Transfer to CCRC	0	0	0	0	0	0	0	0	0
84	FAC Revenues & Expenses	0	0	0	0	0	0	0	0	0
85	ECCR Revenues & Expenses	0	0	0	0	0	0	0	0	0
86	CCRC Revenues & Expenses	0	0	0	0	0	0	0	0	0
87	ECRC Revenues & Expenses	0	0	0	0	0	0	0	0	0
88	CA Demand Reduction Rider	0	0	0	0	0	0	0	0	0
89	Late Payment Revenues	18,390,146	0	0	0	13,241	7,088,891	0	7,102,132	11,288,014
90	Revenue Forecast	0	0	0	0	0	0	0	0	0
91	Total Operating Revenues	0	0	0	0	0	0	0	0	0
92	Charitable Contributions	0	0	0	0	0	0	0	0	0
93	Historical Museum	0	0	(45,470)	0	0	17,540	0	(27,930)	27,930
94	Aviation Costs	0	0	(1,633,916)	(2,092,009)	0	1,437,276	0	(2,288,649)	2,288,649
95	Advanced Metering Infrastructure	0	0	0	0	0	0	0	0	0
96	Bad Debt Expense	0	0	3,805,000	0	0	(1,467,779)	0	2,337,221	(2,337,221)
97	FAC Bad Debt Expense	0	0	16,893,000	0	0	(6,516,475)	0	10,376,525	(10,376,525)
98-S	Advertising Expenses	0	0	0	0	0	0	0	0	0
99-S	Lobbying Expenses	0	0	0	0	0	0	0	0	0
100	Unfilled Positions and Overtime	0	0	(9,245,011)	0	(530,188)	3,770,783	0	(6,004,416)	6,004,416
101	Productivity Improvements	0	0	0	0	0	0	0	0	0
102	Nuclear Production Staffing	0	0	0	0	0	0	0	0	0
103	Salaries and Employee Benefits	0	0	(33,927,400)	0	0	13,087,495	0	(20,839,905)	20,839,905
106	Pension Expense	0	0	0	0	0	0	0	0	0
107	Environmental Insurance Refund	0	0	0	0	0	0	0	0	0
108	Department of Energy Settlement	0	0	(6,084,000)	(747,000)	(109,000)	2,677,105	0	(4,262,895)	4,262,895
109	Affiliated Companies Transactions	0	0	(4,555,224)	0	(510,000)	1,953,910	0	(3,111,314)	3,111,314
116A	Gain on Sale	0	0	0	0	0	0	0	0	0
119	FPL-NED Assets	0	0	0	0	0	0	0	0	0
120	Storm Damage Accrual	0	0	(99,111,000)	0	0	38,232,068	0	(60,878,932)	60,878,932
121	Fossil Dismantlement Accrual	0	0	0	2,640,568	0	(1,018,599)	0	1,621,969	(1,621,969)
122	Rate Case Expense	0	0	(217,250)	0	0	83,804	0	(133,446)	133,446
123-S	Atrium	0	0	0	0	0	0	0	0	0
124	ECCR Payroll in Base Rates	0	0	1,582,000	0	0	(610,257)	0	971,744	(971,744)
125	CCRC Payroll in Base Rates	0	0	427,000	0	0	(164,715)	0	262,285	(262,285)
126	Hedging Costs in FAC	0	0	650,000	0	0	(250,738)	0	399,263	(399,263)
127-S	Orange Grove Operations	0	0	0	0	0	0	0	0	0
128	Level of O&M Expenses	0	0	0	0	0	0	0	0	0
129	Customer Information System	0	0	0	(435,000)	0	167,801	0	(267,199)	267,199
130	Capital Expenditures Reduction	0	0	0	0	0	0	0	0	0
131	Depreciation Expense	0	0	0	(229,265,000)	0	88,438,974	0	(140,826,026)	140,826,026
132	Taxes Other Than Income	0	0	0	0	972,000	(374,949)	0	597,051	(597,051)
133	American Recovery & Reinvestment Ac	0	0	0	0	0	0	0	0	0
134	Income Tax Expense	0	0	0	0	0	0	0	0	0
173	Nuclear Upgrades	0	0	0	0	0	0	0	0	0
	Interest Synchronization	0	0	0	0	0	4,497,351	0	4,497,351	(4,497,351)
	Total Staff Adjustments	(15,248,854)	0	(148,061,271)	(240,233,441)	(5,081,947)	150,360,152	0	(243,016,508)	227,767,654
135	Fall Out - Staff Adjusted NOI	4,099,478,146	27,505,000	1,546,305,729	834,031,559	345,288,053	393,698,152	(1,002,000)	3,145,827,492	953,650,654

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
NET OPERATING INCOME
DECEMBER 2011 TEST YEAR

Issue	Adjusted per Company	Operating Revenues	O&M - Fuel & Purchased Power	O&M Other	Depreciation and Amortization	Taxes Other Than Income	Total Income Taxes and ITCs	(Gain)/Loss on Disposal of Plant	Total Operating Expenses	Net Operating Income
		4,175,024,000	28,222,000	1,781,961,000	1,138,961,000	393,042,000	171,013,000	(951,000)	3,512,248,000	662,776,000
No. Staff Adjustments:										
3	2010 Customer, kWh & kW Forecast	0	0	0	0	0	0	0	0	0
7	2011 Customer, kWh & kW Forecast	0	0	0	0	0	0	0	0	0
14	WCEC 3 - No GBRA	0	0	5,129,000	26,749,000		(12,296,939)	0	19,581,062	(19,581,062)
15	Transmission Investments and Costs	(34,658,000)	0	(10,061,000)	(11,374,000)	(5,411,000)	(3,013,479)	0	(29,859,479)	(4,798,521)
16	Jurisdictional Separation	0	0	0	0	0	0	0	0	0
58	Nuclear End of Life and Last Core	0	0	(6,137,000)			2,367,348	0	(3,769,652)	3,769,652
61	Glades Power Park Amortization	0	0	0	0	0	0	0	0	0
82	Customer Growth and Inflation Factors	0	0	0	0	0	0	0	0	0
83	SJRPP Transfer to CCRC	0	0	0	0	0	0	0	0	0
84	FAC Revenues & Expenses	0	0	0	0	0	0	0	0	0
85	ECCR Revenues & Expenses	0	0	0	0	0	0	0	0	0
86	CCRC Revenues & Expenses	0	0	0	0	0	0	0	0	0
87	ECRC Revenues & Expenses	0	0	0	0	0	0	0	0	0
88	CA Demand Reduction Rider	0	0	0	0	0	0	0	0	0
89	Late Payment Revenues	19,809,684	0	0	0	14,263	7,636,084	0	7,650,347	12,159,337
90	Revenue Forecast	0	0	0	0	0	0	0	0	0
91	Total Operating Revenues	0	0	0	0	0	0	0	0	0
92	Charitable Contributions	0	0	0	0	0	0	0	0	0
93	Historical Museum	0	0	(46,764)		0	18,039	0	(28,725)	28,725
94	Aviation Costs	0	0	(1,763,686)	(2,457,834)	0	1,628,451	0	(2,593,069)	2,593,069
95	Advanced Metering Infrastructure	0	0	0	0	0	0	0	0	0
96	Bad Debt Expense	0	0	1,984,000	0	0	(765,328)	0	1,218,672	(1,218,672)
97	FAC Bad Debt Expense	0	0	13,875,000	0	0	(5,352,281)	0	8,522,719	(8,522,719)
98-S	Advertising Expenses	0	0	0	0	0	0	0	0	0
99-S	Lobbying Expenses	0	0	0	0	0	0	0	0	0
100	Unfilled Positions and Overtime	0	0	(9,653,912)	0	(577,328)	3,946,701	0	(6,284,539)	6,284,539
101	Productivity Improvements	0	0	0	0	0	0	0	0	0
102	Nuclear Production Staffing	0	0	0	0	0	0	0	0	0
103	Salaries and Employee Benefits	0	0	(38,084,506)	0	0	14,691,098	0	(23,393,408)	23,393,408
106	Pension Expense	0	0	0	0	0	0	0	0	0
107	Environmental Insurance Refund	0	0	0	0	0	0	0	0	0
108	Department of Energy Settlement	0	0	(5,327,000)	(1,542,000)	(928,000)	3,007,693	0	(4,789,307)	4,789,307
109	Affiliated Companies Transactions	0	0	(4,774,224)	0	(543,000)	2,051,119	0	(3,266,105)	3,266,105
116A	Gain on Sale	0	0	0	0	0	0	0	0	0
119	FPL-NED Assets	0	0	0	0	0	0	0	0	0
120	Storm Damage Accrual	0	0	(99,110,700)	0	0	38,231,953	0	(60,878,747)	60,878,747
121	Fossil Dismantlement Accrual	0	0	0	2,641,393	0	(1,018,917)	0	1,622,476	(1,622,476)
122	Rate Case Expense	0	0	(417,250)	0	0	160,954	0	(256,296)	256,296
123-S	Atrium	0	0	0	0	0	0	0	0	0
124	ECCR Payroll in Base Rates	0	0	1,449,000	0	0	(558,952)	0	890,048	(890,048)
125	CCRC Payroll in Base Rates	0	0	502,000	0	0	(193,647)	0	308,354	(308,354)
126	Hedging Costs in FAC	0	0	670,000	0	0	(256,453)	0	411,548	(411,548)
127-S	Orange Grove Operations	0	0	0	0	0	0	0	0	0
128	Level of O&M Expenses	0	0	0	0	0	0	0	0	0
129	Customer Information System	0	0	0	(4,216,000)	0	1,626,322	0	(2,589,678)	2,589,678
130	Capital Expenditures Reduction	0	0	0	0	0	0	0	0	0
131	Depreciation Expense	0	0	0	(248,078,000)	0	95,696,089	0	(152,381,912)	152,381,912
132	Taxes Other Than Income	0	0	0	0	971,000	(374,563)	0	596,437	(596,437)
133	American Recovery & Reinvestment Ac	0	0	0	0	0	0	0	0	0
134	Income Tax Expense	0	0	0	0	0	0	0	0	0
173	Nuclear Upgrades	0	0	0	0	0	0	0	0	0
	Interest Synchronization	0	0	0	0	0	747,096	0	747,096	(747,096)
	Total Staff Adjustments	(14,848,316)	0	(151,767,042)	(238,277,441)	(6,474,065)	147,976,388	0	(248,542,160)	233,693,844
135	Fall Out - Staff Adjusted NOI	4,160,175,684	28,222,000	1,630,193,958	900,683,559	386,567,935	318,989,388	(951,000)	3,263,705,840	896,469,844

SCHEDULE 4A

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
DECEMBER 2010 PROJECTED TEST YEAR
NET OPERATING INCOME MULTIPLIER

Line No.	(%) <u>As Filed</u>	(%) <u>Adjusted</u>
1 Revenue Requirement	100.000	100.000
2 Gross Receipts Tax	0.000	0.000
3 Regulatory Assessment Fee	(0.072)	(0.072)
4 Bad Debt Rate	<u>(0.260)</u>	<u>(0.302)</u>
5 Net Before Income Taxes	99.668	99.626
6 Income Taxes (Line 5 x 38.575%)	<u>38.447</u>	<u>38.431</u>
7 Revenue Expansion Factor	<u>61.221</u>	<u>61.195</u>
8 Net Operating Income Multiplier (100%/Line 7)	<u>1.63342</u>	<u>1.63411</u>

SCHEDULE 4B

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
DECEMBER 2011 PROJECTED TEST YEAR
NET OPERATING INCOME MULTIPLIER

Line No.	(%) <u>As Filed</u>	(%) <u>Adjusted</u>
1 Revenue Requirement	100.000	100.000
2 Gross Receipts Tax	0.000	0.000
3 Regulatory Assessment Fee	(0.072)	(0.072)
4 Bad Debt Rate	<u>(0.207)</u>	<u>(0.221)</u>
5 Net Before Income Taxes	99.721	99.707
6 Income Taxes (Line 5 x 38.575%)	<u>38.467</u>	<u>38.462</u>
7 Revenue Expansion Factor	<u>61.254</u>	<u>61.245</u>
8 Net Operating Income Multiplier (100%/Line 7)	<u>1.63256</u>	<u>1.63279</u>

SCHEDULE 5A
2010

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
DECEMBER 2010 PROJECTED TEST YEAR
OPERATING REVENUE INCREASE CALCULATION

<u>Line No.</u>	<u>As Filed</u>	<u>Staff Adjusted</u>
1. Rate Base	\$ 17,063,586,000	\$16,747,031,918
2. Overall Rate of Return	<u>8.00%</u>	<u>7.00%</u>
3. Required Net Operating Income (1)x(2)	1,364,748,000	1,172,292,234
4. Achieved Net Operating Income	<u>725,883,000</u>	<u>953,650,654</u>
5. Net Operating Income Deficiency (3)-(4)	638,865,000	218,641,581
6. Net Operating Income Multiplier	<u>1.63342</u>	<u>1.63411</u>
7. Operating Revenue Increase (5)x(6)	<u>\$1,043,535,000</u>	<u>\$357,284,393</u>

SCHEDULE 5B
2011

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 080677-EI
DECEMBER 2011 PROJECTED TEST YEAR
OPERATING REVENUE INCREASE CALCULATION

<u>Line No.</u>	<u>As Filed</u>	<u>Staff Adjusted</u>
1. Rate Base	\$ 17,880,402,000	\$18,228,936,900
2. Overall Rate of Return	<u>8.18%</u>	<u>7.18%</u>
3. Required Net Operating Income (1)x(2)	1,462,895,000	1,308,837,669
4. Achieved Net Operating Income	<u>662,776,000</u>	<u>896,469,844</u>
5. Net Operating Income Deficiency (3)-(4)	800,119,000	412,367,826
6. Net Operating Income Multiplier	<u>1.63256</u>	<u>1.63279</u>
7. Operating Revenue Increase (5)x(6)	1,306,243,000	673,308,285
8. 2010 Operating Revenue Increase ¹	<u>1,058,876,000</u>	<u>362,536,474</u>
9. 2011 Operating Revenue Increase (7)-(8)	<u>\$247,367,000</u> ²	<u>\$310,771,811</u> ³

NOTE: ¹Adjusted for 2011 Sales Growth - 1.47%

²Does not include WCEC Unit 3 Revenue Requirements

³Includes WCEC Unit 3 Revenue Requirements

STIPULATIONS

At the prehearing, the parties reached stipulations on several issues. At the commencement of the hearing, the Commission voted on, and approved, those stipulations. The stipulations previously approved by the Commission are listed below, with the exception of Issue 172. Issue 172, the appropriate effective date for FPL's revised rates and charges, was removed from this list because it can no longer be applicable because the Commission's vote will occur after the stipulated effective date. Accordingly, Issue 172 is addressed in the recommendation.

The stipulations fall within one of two categories, as listed below. "Category 1" stipulations reflect the agreement of FPL, staff, and all of the intervenors in this docket. "Category 2" stipulations reflect the agreement of FPL and staff where no other party has taken a position on the issue. Issues 123 and 127 are also classified as Category 2 stipulations, although some, but not all, intervenors agreed with FPL and staff.

No further vote is required on these stipulations.

CATEGORY 1 STIPULATIONS:

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

PARTIES: The parties agree that this issue will be decided in a different docket.

CATEGORY 2 STIPULATIONS:

The following issues have been agreed to by some parties. All other parties took no position.

ISSUE 123: Should an adjustment continue to be made to Administrative and General Expenses to eliminate "Atrium Expenses" per Order No. 10306, Docket No. 810002-EU?

A. For the 2010 projected test year?

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

POSITION: No. the atrium has been retired and the adjustment is no longer necessary.

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

A. For the 2010 projected test year?

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

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

For the following issues, staff agrees with the FPL's position, and all other parties took no position. Accordingly, there are no factual issues in dispute.

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

POSITION: No. FPL has not removed any ECRC capital cost recovery items from the ECRC and placed them in base rates.

ISSUE 57: Should any adjustments be made to FPL's fuel inventories?

POSITION: No. Subject to the adjustments listed on FPL witness Ousdahl's Exhibit KO-16, the 2010 and 2011 projections of FPL's fuel inventories are appropriate.

ISSUE 98: Should an adjustment be made to advertising expenses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

POSITION: No. An adjustment is not necessary as advertising expenses included in 2010 and 2011 are utility related and informational, educational or related to consumer safety

ISSUE 99: Has FPL made the appropriate adjustments to remove lobbying expenses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

POSITION: FPL has reflected the amounts applicable to lobbying expenses below the line for the projected test year 2010 and for the subsequent test year 2011. Therefore, no adjustment to remove lobbying expenses from net operating income is required.

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

POSITION: Yes. The appropriate adjustment to account for the increase in unbilled revenue is that shown in MFR E-12.

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

POSITION: Yes. The appropriate Temporary/Construction Service Charges, as shown in MFR E-14, Attachment 1, are: (1) for Overhead: \$255; and (2) for Underground: \$142.

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

POSITION: Yes. FPL has properly calculated the proposed charges for providing BERS audits pursuant to Florida Administrative Code Rule 25-17.003 (4) (a).

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

POSITION: Yes. The appropriate charge, as shown in MFR-E-14, Attachments 1 and 3, is \$279.98.

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

POSITION: Yes. As outlined in the current WIES tariff FPL is authorized to petition the Commission to close the WIES rate schedule if the kWh under the rate schedule have not reached 360,000 kWh by June 2004. For the twelve month period ending June 2009, kWh sales under the WIES have only reached 20,640 kWh.

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

POSITION: Yes. Removing this option will avoid collection issues that 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).

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

POSITION: Yes, the proposed minimum charge for non-metered service under the GS rate appropriately reflects the difference between the GS customer charge and the metering costs for serving GS-1 customers.

ISSUE 176: Should FPL be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

POSITION: Yes.