ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.	DOCKET NO. 120015-EI September 21, 2012

SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION POST-HEARING BRIEF

The South Florida Hospital and Healthcare Association ("SFHHA"), pursuant to Order Nos. PSC-12-0143-PCO-EI, PSC-12-0428-PHO-EI, and PSC-12-0439-PCO-EI, hereby files this Post-Hearing Brief in the above-referenced proceeding.

INTRODUCTION

SFHHA strongly supports the proposed settlement submitted in this case by SFHHA, Florida Power & Light Company ("FPL"), the Florida Industrial Power Users Group ("FIPUG") and the Federal Executive Agencies ("FEA"), and SFHHA urges the Commission to approve that settlement. The Settlement will help avoid the unwarranted base rate increase of 22% or more for large customers served under Rate Schedules GSLDT-1, GSLDT-2 and CILC-1D, with related impacts on employment and job creation in South Florida. SFHHA believes the proposed settlement will deliver substantial benefits to all ratepayers and is in the public interest. As a result, while SFHHA submits this post-hearing brief that reflects its litigation positions, it nonetheless wishes to make clear that its primary position is in support of the proposed settlement.

STATEMENT OF BASIC POSITION

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A. Summary

Two key areas of dispute dominate all others in this case: (1) the level at which the Commission should set FPL's authorized Return on Equity ("ROE"), inclusive of whether the

Commission should authorize the 25-basis-point adder to the ROE that FPL has requested; and (2) whether FPL has properly allocated costs among rate classes.

With respect to the first key area of dispute, SFHHA demonstrates that FPL has not presented evidence to justify an award of an 11.5% ROE (11.25% plus the 25-basis-point adder). With respect to FPL's allocation of costs among rate classes, SFHHA demonstrates that FPL's forecasts of peak loads and net energy for load ("NEL") (which the Commission has accepted in the past) have turned out to be erroneous by a wide margin, as FPL now admits. FPL's erroneous forecasts of NEL have produced flawed projections of revenues by rate class, which have distorted the perception of the contributions the various rate classes have made to FPL's return. In addition, FPL has relied upon class cost of service allocation methodologies that by design address cost of service allocation issues that are different from the actual class cost of service allocation issues currently facing FPL's system. FPL's continued reliance on those cost allocation methodologies, although approved by the Commission in past orders, is not appropriate because those methodologies do not properly allocate costs among ratepayers under current circumstances.

B. Overview of ROE Issues

The single largest factor influencing the rate increase sought by FPL is the interaction of its thick equity capitalization (nearly 60% of its total investor-supplied capital) and its requested equity return (*i.e.*, 11.5%).[1] The cost of service effects of FPL's excessive ROE request are greatly amplified by its proposed capital structure. Given the contribution of these items to FPL's requested rate increase, it is curious that FPL's benchmarking studies (claimed to exhibit FPL's superior management) did not measure the efficiency with which FPL sources capital

[1] Tr. 3186:6-7 (Kollen) (demonstrating that out of approximately $473 million of adjustments recommended by SFHHA, SFHHA's ROE adjustment accounts for $387 million).

between equity and debt. Tr. 297:3-298:19 (Reed); *see also* Ex. 557. The efficiency (or lack thereof) with which FPL attributes capital between equity and debt touches upon a number of key interrelated issues, including FPL's excessive ROE request, its rich equity component, the clear failure to justify an incentive ROE adder and FPL's low risk. A lower return on equity is warranted given the impact arising from FPL's thick equity capitalization.

The inefficiency of FPL's capital structure contrasts with the capital structures of its parent, NextEra Energy Inc. ("NEEI") and its riskier merchant power affiliate NextEra Energy Resources ("NEER"). While FPL maintains that it needs to have **58%** of its investor-supplied capital in equity, its corporate parent has a capital structure with only a **40%** equity component, and the riskier merchant affiliate NEER (through NEEI's Capital Holdings affiliate) has only **21%** of its capital structure furnished by equity. Ex. 487 at MFR Schedule D-2, col. 7, lines 2, 11, 32. For an enterprise such as NEER, experiencing (according to FPL) significant "headwinds"[2] and a thin equity share of capitalization, the rich stream of FPL cash is a valuable lifeline indeed.[3]

In an unregulated environment, it is illogical for the *lowest* risk entity of the three affiliates (FPL) to have the *highest* proportion (nearly 60%) of its capitalization furnished by equity. It is only because FPL's rates are set by this Commission based upon its capital structure that it uses a capital structure which is 60% equity. These disparities in equity ratios among affiliates strongly suggest that FPL is using the thick equity component to assist NEER. SFHHA's ROE proposals are intended to provide FPL with an incentive, obviously lacking from FPL's original filing, to efficiently finance its utility operations, and reduce the proportion funded by equity.

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2 Ex. 484 at p. 35; Tr. 1818:4-17 (Avera).

3 FPL Witness Avera could not identify another merchant energy company with a credit rating as high as, and an equity component as low as, NEER. Tr. 1821:6-12 (Avera).

FPL's effort to justify an 11.5% ROE depends to a large extent upon non-utility proxy group member results. The use of non-utility enterprises ignores a key distinction, however. Non-utilities have an important incentive to efficiently and sparingly manage the proportion of their capitalization supplied by equity because (all other things equal), the less equity invested, the higher the earnings and dividends per share that result. However, the same thing is *not* true if a regulated enterprise reduces its share of capitalization supplied by equity for ratemaking purposes (Tr. 459:6-10 (Silagy)), as FPL's own President acknowledged. Tr. 456:14-21 (Silagy). Thus non-utilities have a strong incentive to tightly manage their equity components, because that drives earnings (and dividends) per share. Growth in earnings and dividends per share are critical components in the discounted cash flow ("DCF") formula's results.[4] Consequently, this is a critical distinction (Tr. 459:12-17 (Silagy)): the incentive that non-rate regulated firms have to efficiently manage their capital structures is missing for FPL - unless the Commission provides that incentive. In fact, FPL finds the current regulated environment and the effects of its thick equity structure so inviting that it is telling investors even in other continents about FPL's plans to *increase* the amount of rate-regulated investment it has in Florida. Tr. 454:5-20 (Silagy); Ex. 484 at 4. One reason is that FPL's regulated operations' cash flow supports the potential for even more dividends. *Id.* FPL's thick equity structure also helps to offset the "headwinds" its unregulated affiliate is experiencing.[5] The incremental cash flow FPL captures by using equity over debt is very substantial.[6] Using the capital structure Standard

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4 Tr. 4551:16-4552:1 (Avera) (Dr. Avera states that growth rates are "the most important" component of DCF calculations).

5 Ex. 484 at 35 ("Strong headwinds at Energy Resources"); *see also* Tr. 1818:4-17 (Avera).

6 *I.e.*, average debt cost of 5.26% (Ex. 487 at MFR Schedule D-1a, ln. 1, col. 9), as opposed to FPL's requested ROE of 11.5% plus a tax gross-up of approximately 60% to cover federal and state corporate income tax allowances of 6.9%, totaling 18.4% in pre tax cost.

and Poor's ("S&P") imputes to NEEI of approximately 52%,[7] which is comparable to Gulf Power Co.'s ("Gulf Power") capital structure approved this year by the Commission (*i.e.*, 52.4% equity, Tr. 3033, Table 5 (Baudino)) shows that the inefficient capital structure used by FPL costs ratepayers conservatively $125 million annually.[8]

While contending that "it is appropriate for the Commission to consider all aspects of FPL's performance" (Tr. 1906:3-4 (Dewhurst)), FPL failed to study the efficiency (or inefficiency) of its capital structure. *See, e.g.*, Ex. 557 (OPC POD Nos. 43, 45). In like fashion, the prepared testimony of FPL's President did not address the issue, even though that testimony purportedly summarized the main topics in the case. Tr. 460:10-18 (Silagy). By failing to measure for and therefore reward or penalize FPL for this critical feature of management, FPL failed to replicate market incentives, which it claimed was the point of its incentive ROE adder. Tr. 1907:22-23 (Dewhurst). The Commission, however, can provide an incentive for more efficient management of FPL's capital structure by reducing the premium FPL gets in its ROE, and thus the incentive FPL has to inflate the equity component of its capital structure.

FPL's thick equity capitalization has materially reduced its risk, a fact rating agencies have recognized.[9] That diminished financial risk contributes to an overall risk that is lower than or comparable to other Florida electric utilities, based upon its utility operations.[10] FPL's need for a thicker equity cushion than, for instance, Gulf Power, may be driven at least in part by the

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7 Ex. 550 at pp. 7-8 of document, Table 3 (Bates Nos. Staff 000806-000807); Tr. 1795:12-1796:25 (Avera).

8 Simply shifting capitalization from equity to debt in sufficient amounts to bring FPL's equity ratio of investor supplied capital from about 58% to 52% equity based on 2012 data (*i.e.*, from $9.51 billion to $8.56 billion (a reduction of 10% in the amount of equity invested (*see* Ex. 487 at MFR Schedule D-1a, col. 7, line 4)) times the difference in the pre tax cost of capital between debt (5.2%) and equity (11.5% requested by FPL), equals about $125 million annually.

9 *See, e.g.*, Ex. 55 (Bates No. Staff 000151, Moody's Apr. 11, 2011 report) (explaining that FPL's debt to capitalization "is among the lowest in the nation").

10 *Compare* Tr. 3002:14-15 (Baudino) (FPL's bonds are rated "A" and "Aa3" by S&P and Moody's, respectively) *with* Tr. 3033:2-3 (Baudino) (Gulf Power's bonds are rated "A" and "A3" by S&P and Moody's, respectively).

very significant merchant activities of FPL affiliate NEER, which represent about half of NEEI's net income (Ex. 487 at MFR No. F-2 at p. 115), a far higher proportion than is the case for merchant activities of other Florida utilities such as Gulf Power Company, Progress Energy Florida, Inc., or Tampa Elec. Co. ("TECO").

C. Overview of Cost Allocation Issues

FPL's forecasts of load are the essential foundation for allocating FPL's cost of service among rate classes. Thus, if FPL's forecasts are unreliable, so is its class cost of service study. An allocation of FPL's cost of service among rate classes based upon an unreliable class cost of service study would be unfair, unjust and unreasonable. In recognition of that fact, as FPL acknowledges, the Commission historically has applied certain standards in evaluating forecasts: (1) whether a load forecast appears reasonable given historic trends (Tr. 617:11-13, 669:51-16 (Morley)); and (2) whether a utility has a record of producing reliable forecasts. Tr. 617: 13-15, 670:9-15 (Morley).

FPL's Director of Load Forecasting admits that FPL's forecast is NOT consistent with historic trends. Tr. 669:22-670:8 (Morley). So FPL fails the first of the two standards it acknowledges apply. FPL's own records show it fails the second standard as well, *i.e.*, FPL over-forecast the 2011 summer peak in every year but one since 2002, and from 2006 through 2008, its forecasts were off by 15%. Tr. 678:4-6679:7 (Morley); Ex. 502 at 1465. Since 1998, on a weather-normalized basis, its forecasts of the 2011 summer peak have been off by 17%. Tr. 679:9-16 (Morley); Ex. 502 at 1466. Furthermore, FPL's current forecast of peak load for 2018 is 4200 MW below the forecast FPL made in the needs determination to justify its Canaveral and Riviera modernization projects. Tr. 681:15-21 (Morley); Ex. 502 at 1473. When FPL seeks to justify more rate base, it projects one level of demand growth; but when it comes time to set unit rates, it projects an entirely different, and lower, level of demand growth. But notwithstanding

those facts, FPL seeks to justify its current forecasts based upon the very same argument it relied upon in the past - the alleged high degree of statistical significance of its model. Tr. 700:18-701:3 (Morley); Ex. 509 at 17.

There is an idiomatic expression: "Fool me once, shame on you; fool me twice, shame on me." If ever that expression had resonance, it surely is here. That is particularly true given the overwhelming evidence in this case that establishes that FPL is proposing disproportionate, improper rate increases for large general service ratepayers in the GSLDT-1, GSLDT-2 and CILC-1D rate classes. For instance, FPL admits that customers with higher load factors are using their capacity more efficiently than customers with lower load factors, all other things being equal. Tr. 2115:3-6 (Ender). In a similar vein, FPL admits, again all other things being equal, that it costs FPL more on a KWh basis to serve a customer with a lower load factor than a customer with a higher load factor. Tr. 2115:7-11 (Ender). FPL's own data show that the CILC-1D rate class had a 12 CP load factor in 2010 of 106.28%; the GSLDT-1 rate class had a 12 CP load factor in 2010 of 77.95%; the GSLDT-2 rate class had a 12 CP load factor in 2010 of 93.94%; whereas the RST-1 rate class had a 12 CP load factor in 2010 of only 57.6%. Tr. 2127:8-2128:11 (Ender); Ex. 562 at 17, 7, 8, 13. Nonetheless, FPL is requesting to increase RS-1 rates by just 10.8% versus proposed rate increases of **22.2%, 21.9% and 23.0%**, respectively, for the higher load factor CILC-1D, GSLDT-1 and GSLDT-2 rate classes.[11]

FPL reaches this anomalous result for a myriad of reasons including, but not limited, to its faulty load forecasts. Another contributor to these disparate rate increases is FPL's continued use of the 12 CP and 1/13th methodology for allocating the cost of production plant. The 12 CP and 1/13th methodology no longer is appropriate for the FPL system. The undisputed evidence

[11] Ex. 487 at MFR E13a, p. 1, col. (5), rows 1, 15, 16, 25.

shows that the ONLY factor causing FPL to build new generation capacity is its need to meet its summer peak load. The record further shows that a cost allocation methodology based upon the summer peak will send accurate price signals inducing customers to reduce their contribution to the summer peak. In contrast, the 12 CP and 1/13th methodology forces ratepayers who are not responsible for causing the summer peak to pay for it regardless, thus subsidizing ratepayers who are responsible for causing the summer peak. Consequently, the 12 CP and 1/13th methodology sends the wrong message to the market and induces an inefficient result contrary to the Commission's goals.

Another methodology that results in one rate class subsidizing another is FPL's method of classifying all distribution facilities as demand-related, except for Account 369 services and Account 320 meters. Tr. 3099:5-7 (Baron). The Commission has approved that methodology in past rate cases, and declined to adopt the Minimum Distribution System ("MDS") methodology based upon at least two conclusions: (1) that the MDS method assumes a utility builds facilities to serve zero load;[12] and (2) that FPL designs its distribution system based upon system load, not customers. Whatever the merits of those conclusions regarding other utilities' systems and in other contexts, the record here shows that those two conclusions are erroneous with regard to FPL today. FPL's own planning guidelines show that transformers, and (by necessary implication) poles and conductors, are sized and installed based upon the number of customers served. Those guidelines flatly refute FPL's claim that it does not install those facilities on the basis of number of customers served. The guidelines therefore also demonstrate that the classification and allocation of costs of transformers, poles and conductors on a demand basis allocates the costs of distribution facilities in an irrational manner that bears no relationship to

[12] *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 080677-EI, Order No. PSC-10-0153-FOF-EI at 171 (2010) ("FPL 2010 Rate Order").

cost causation. The record also shows that the MDS method contemplates that a minimum set of facilities must be installed to serve each customer simply to connect the customer, regardless of the customer's load. This is far different than installing facilities to serve zero load. Adoption of the MDS method thus is appropriate to align cost responsibility with cost causation. It also would be consistent with the actions of state public service commissions in 21 other states.

D. Conclusion

Again, SFHHA strongly supports the proposed settlement of this case and urges the Commission to approve it. However, if the Commission declines to approve the proposed settlement, the Commission should reduce FPL's rates by a total of $99.141 million for the reasons discussed herein. *See* Appendix A, attached hereto, for a table summarizing SFHHA's recommended reductions to FPL's revenue requirements.

ISSUES AND POSITIONS

LEGAL ISSUES

ISSUE-1: Absent a stipulation of parties in this case, does the Commission possess legal authority to grant FPL's proposal to continue utilizing the storm cost recovery mechanism that was one of the terms of the settlement agreement that the Commission approved in Order No. PSC-11-0089-S-EI?

POSITION: *No position.*

ISSUE-2: Does the Commission have the legal authority to approve FPL's requested base rate step increase for the Canaveral Modernization Project ("CMP") if the CMP does not go into service until after the 2013 test year?

POSITION: *No position.*

ISSUE-3: Does Commission Rule 25-6.1351, "Cost Allocation and Affiliate Transactions," require FPL to implement and apply the criteria (greater of market price or fully allocated cost for charges to affiliates, lesser of market price or fully allocated cost for charges paid to affiliates) and related requirements of the rule to all affiliate transactions? (OPC)

POSITION: *SFHHA supports OPC's position.*

ISSUE-4: With respect to amounts that FPL charges or pays to affiliates, who has the burden of proof in this proceeding to demonstrate the amounts comply with Commission Rule 25-6.1351 and should be allowed in the cost of service borne by customers? (OPC)

POSITION: *SFHHA supports OPC's position.*

ISSUE-5: Does the Commission possess the power to grant a 25-basis-point performance incentive to FPL?

POSITION: *The Commission has expressed in the past that it has the authority to grant a percentage incentive to a utility's ROE, but the facts in this case do not support the grant of such an incentive.*

DISCUSSION:

The Florida Supreme Court has stated that the Commission may adjust an electric utility's ROE for factors such as "management efficiency" so long as the resulting ROE is not set outside the range of reasonable returns.[13] However, the Commission has not established an objective system of standards or benchmarks against which electric utilities may be measured in order to adjust an electric utility's ROE upwards or downwards. Without a carefully delineated system of standards, the Commission cannot provide clear signals to Florida electric utilities regarding what behavior it intends to incentivize or punish with the use of ROE adjustments.

FPL's reliance on the Commission's decisions regarding ROE penalties for water utilities is particularly troublesome in this regard.[14] FPL is correct that the Commission has exercised its authority to adjust water utilities' ROEs when such utilities failed to attain quality of service standards.[15] However, the Commission's authority to adjust a water utility's ROE and the

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13 *See Gulf Power Co. v. Wilson*, 597 So.2d 270, 273 (Fla. 1992).

14 *See, e.g.*, Tr. 4771:9-11 (Dewhurst) (citing *In re: Application for increase in water/wastewater rates in Alachua, Brevard, DeSoto, etc.*, Docket No. 100330-WS, Order No. PSC-12-0102-FOF-WS (2012) regarding Aqua Utilities' ROE).

15 *See, e.g., In re: Application for Increase in Water & Wastewater Rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties. by Aqua Utils. Fla., Inc.*, Docket No. 080121-WS, Order No. PSC-09-0385-FOF-WS at 69-70 (2009); *In re: Application for Increase in Water/Wastewater Rates in Alachua, Brevard, DeSoto, Hardee, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter,*

standards by which such an adjustment are to be measured are provided by statute.[16] With clearly delineated benchmarks and standards, there can be no confusion for water utilities regarding how their performance will be measured.

Unlike water utilities, the standards by which an electric utility's ROE may be adjusted are not clearly delineated by statute,[17] nor has the Commission established clear standards in previous rate cases or rulemaking proceedings. In the past, the Commission has approved both ROE adders and penalties for an electric utility's (1) "continuing high level of performance in customer satisfaction, customer complaints, transmission and distribution reliability, and generating plant availability,"[18] (2) mismanagement related to unethical and illegal activities,[19] and (3) "continued . . . commitment to an effective conservation program . . . ."[20] None of the above cited orders provided objective and clear standards or benchmarks by which an electric utility's performance would be measured. The use of both ROE adders and penalties have been sporadic and undefined. As a result, they have not provided clear incentives to Commission regulated electric utilities.

Volusia, and Washington Counties by Aqua Utils. Fla., Inc., Docket No. 100330-WS, Order No. PSC-12-0102-FOF-WS at 55 (2012).

16 *See* FLA. STAT. § 367.111(2) (2012) ("If the commission finds that a utility has failed to provide its customers with water or wastewater service that meets the standards promulgated by the Department of Environmental Protection or the water management districts, the commission may reduce the utility's return on equity until the standards are met.").

17 *See* FLA. STAT. § 366.041(1) (2012) ("In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be observed and charged for service within the state by any and all public utilities under its jurisdiction, the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings.").

18 *In re: Request for Rate Increase by Gulf Power Co.*, Docket No. 010949-EI, Order No. PSC-02-0787-FOF-EI at 35 (2002).

19 *In re: Petition of Gulf Power Co. for an Increase in its Rates & Charges*, Docket No. 891345-EI, Order No. 23573, 1990 Fla. PUC LEXIS 1320, at *30-46 (1990).

20 *In re: Petition of Gulf Power Co. for an Increase in its Rates & Charges*, Docket No. 810136-EU (CR), Order No. 10557, 1982 Fla. PUC LEXIS 913 at *84 (1982).

Absent a Commission-approved set of standards and benchmarks, FPL has proposed its own system to evaluate itself. FPL's proposed "standards" are incomplete, reward behavior that FPL states it would pursue without an incentive, and ignore bad management decisions. Unsurprisingly, FPL manages to pass its own test for superior management and service. As will be shown in the discussion related to Issue No. 54, FPL's benchmarking study is methodologically flawed and incorporates unreliable data. However, more fundamentally, as a matter of process, the Commission should not allow an individual utility to set the standard by which it and other utilities' performance will be judged.

A rulemaking proceeding provides a fairer and more inclusive process for the Commission to establish objective benchmarks and standards by which all electric utilities under its regulation can be judged. Those standards and benchmarks can be designed to incentivize all electric utilities in the state to provide the best service to their ratepayers at the least possible cost. Rather than having the input of a single utility regarding the appropriate factors, the Commission can obtain opinions from all of the utilities and customers within its jurisdiction. An open and fair process will ensure that the mechanism chosen by the Commission to reward and punish electric utilities for their performance provides the right incentives across the state to all of the Commission regulated electric utilities.

ISSUE-6: DROPPED.

ISSUE-7: DROPPED.

ISSUE-8: DROPPED.

TEST PERIOD AND FORECASTING

ISSUE-9: Is FPL's projected test period of the 12 months ending December 31, 2013 appropriate?

POSITION: *No position.*

ISSUE-10: Are FPL's forecasts of Customers, KWH, and KW by Rate Class and Revenue Class, for the 2013 projected test year appropriate? If not, what forecasts of Customers, KWH, and KW by Rate Class and Revenue Class should the Commission use in determining revenues and setting rates in this case?

POSITION: *No. FPL inappropriately relies on a 20-year normal weather assumption to determine weather patterns, which forms the basis of FPL's projected billing determinants and rate class revenues in this case. A 10-year actual weather history using cooling degree hours as the weather metric produces a higher level of mWh sales and revenues than assumed by FPL in this proceeding and more accurately accounts for what is now normal weather in FPL's service territory.*

DISCUSSION:

FPL historically has relied upon a 20-year history to determine what it regards as normal weather patterns. Tr. 3130:20-22 (Baron). It relies upon its assumed normal weather forecast to project billing determinants and rate class revenues. Tr. 3130:22-23 (Baron). The evidence shows however that due to changing weather patterns, it would be more appropriate to rely upon a 10-year weather history. Exhibit 587 shows that actual cooling degree hours ("CDH") exceeded what FPL classified as "normal" every year for which data were available since 2002. Exhibit 587 also shows the same relationship for third-quarter data, *i.e.*, the period generally encompassing the summer peak. The evidence further shows actual 10-year CDH are 1.64% greater than the normal value FPL assumed for its test year projections. Tr. 3131:12-14 (Baron); Ex. 319. Utilization of a 1.64% increase in CDH would increase NEL by 0.38%. Tr. 3131:18-19 (Baron); Ex. 319. Reflective of this evidence, SFHHA recommended that FPL's forecasts of KWh and KW be adjusted upward by 0.38% to account for the undeniable impact of a clear warming trend on FPL's sales of energy. This would result in a $16.148 million reduction to FPL's revenue requirement.

FPL opposes SFHHA's recommendation to utilize 10 years, rather than 20 years, of weather data. Ironically, however, the very evidence FPL produced as part of its opposition

actually supports the adjustment to FPL's forecast to reflect the clear change in weather experienced over the last 10 years.

Exhibits 394 and 395, sponsored by Dr. Morley, unambiguously show an upward trend in CDH over the last 10 years. This is particularly true when one examines the data points reflecting 20 years of weather data. Dr. Morley, however, repeatedly denied that fact. Tr. 3447:25-3448:20, 3462:22-3467:24 (Morley). Given the data points plotted on Exhibits 394 and 395, her denial was not credible.

Furthermore, FPL's failure to adjust its view of "normal" weather patterns in its service territory, and the impact of the data demonstrating those weather patterns, is inconsistent with the direction of FPL's parent. NEEI's Executive Chairman declared in a speech in 2008 that global warming is real. Ex. 585 at 1. He also made clear that FPL wants to lead the way in recognizing and addressing global warming. Ex. 385; Tr. 3451:17-3452:6 (Morley).

FPL's opposition in this case to recognition of the clear warming trend in its service territory, and the effect of that trend on FPL's sales of energy, fly in the face of NEEI's corporate direction. FPL's position here also ignores the data in Exhibits 394, 395 and 587, all of which come from FPL's own records. Based upon those documents, as well as Mr. Baron's testimony and Exhibit 319, the Commission should adjust FPL's forecasts of KWh and KW (*i.e.*, adjust FPL's proposed billing determinants) by 0.38% as recommended by SFHHA.

ISSUE-11: Are FPL's projected revenues from sales of electricity by rate class at present rates for the 2012 prior year and projected 2013 test year appropriate? If not, what are the appropriate projected amounts of revenues from sales of electricity for the 2012 prior year and projected 2013 test year?

POSITION: *No. FPL's forecasts have a history of being flawed and the evidence establishes that FPL's projections of revenues by rate class are flawed again.*

DISCUSSION:

FPL's projected revenues from sales of electricity by rate class at present rates for the 2012 prior year and projected 2013 test year are flawed and unreasonable.

There is substantial evidence that FPL's projections of revenues from sales of electricity by rate classes produced anomalous results. The evidence shows that actual sales to the residential class (rate class RS(T)-1) were 54 million, 56.5 million and 54.7 million MWh in 2009, 2010 and 2011, respectively. Tr. 2203:24-2204:9 (Deaton); Ex. 560; Ex. 561. However, FPL forecast sales to the residential class of just 53 million MWh in 2013, *i.e.*, a forecast lower than actual sales in any year between 2009-2011 and a reduction of 1.7 million MWh from actual sales in 2011. Tr. 2204:10-19 (Deaton); Ex. 560. At the same time, FPL forecast a growth in customers in the RS(T)-1 rate class in 2013 as compared to 2011. Tr. 2209:9-21 (Deaton); Ex. 564. Thus, FPL forecast a reduction in sales notwithstanding that it forecast a greater number of residential customers.

FPL's forecast of residential customer growth and diminished sales contrasts with FPL's forecasts of sales for large commercial class customers. Sales to the GSLDT-1 rate class were 10.8 million, 10.7 million and 10.8 million MWh in 2009, 2010 and 2011, respectively. Tr. 2203:20-2204:17 (Deaton); Ex. 560; Ex. 561. Just as FPL projected a growth of residential customers, it forecast that the GSLDT-1 rate class would experience customer growth. Tr. 2207:1-4 (Deaton); Ex. 564. However, FPL also forecast that sales to the GSLDT-1 rate class would increase from 10.8 million MWh in 2011 to 11.3 million MWh in 2013. Tr. 2204:7-13 (Deaton); Ex. 560. Similarly, FPL forecast that the GSLDT-2 rate class also would experience a growth in customers (Tr. 2208:14-2209:8 (Deaton); Ex. 564), and that sales to the GSLDT-2 rate class would increase in 2013 as compared to 2011. Tr. 2204:18-2205:9 (Deaton); Ex. 560, Ex.

561. So whereas FPL forecast customer growth in the RST-1, GSLDT-1 and GSLDT-2 rate classes, it forecast lower sales to the RST-1 rate class as compared to 2011 but higher sales in the cases of the GSLDT-1 and GSLDT-2 rate classes.

FPL Witness Deaton tried to explain this anomaly away by claiming that the difference in the treatment of residential customers in the RST-1 rate class versus the large commercial class customers in the GSLDT-1 and 2 rate classes was explained by weather normalization and that residential customers are more susceptible to changes in usage based on the weather than commercial or industrial customers. Tr. 2210:1-2211:13 (Deaton). However, not only is there no documentary proof to support her assertion, but the explanation files in the face of Dr. Morley's position that a weather-normalized forecast cannot be made on a rate class basis. Ex. 586. Accordingly, the evidence supports the conclusion that FPL's forecast contained significant errors that resulted in a flawed projection of revenues from sales of electricity by rate class.

FPL also has not adequately supported its forecast of NEL, which is used to project revenues by rate class. FPL Witness Morley cited two standards the Commission historically has applied in evaluating forecasts: (1) whether the load forecasts appears reasonable given historic trends, Tr. 617:11-13, 669:12-16 (Morley); and (2) whether the utility has a record of producing accurate reliable forecasts. Tr. 617:13-15, 670:9-15 (Morley). FPL's forecast of NEL fails both of those tests.

To begin, Dr. Morley directly admitted that her forecast is NOT consistent with historic trends. Tr. 669:22-670:8 (Morley). Perhaps she made that admission because the evidence clearly establishes that FPL's forecasts have not been accurate in the past, and therefore fail the second test enunciated by Dr. Morley. Furthermore, FPL has presented no evidence that shows

that the current forecast is any more reliable than those of the past. In fact, the evidence shows otherwise.

For instance, FPL claims that its forecasts in base rate cases, needs determinations and 10-year site plans have been accurate and reliable. Tr. 670:16-20 (Morley). However, FPL over-forecast the 2011 summer peak in every year but one since 2002, and from 2006 through 2008, its forecasts were off in a range of 15%. Tr. 678:4-6679:7 (Morley); Ex. 502 at 1465. Since 1998, on a weather-normalized basis, its forecasts of the 2011 summer peak have been off by 17%. Tr. 679:9-16 (Morley); Ex. 502 at 1466. Although FPL recently has introduced some changes to its model to reduce its most recent forecast, it still cannot explain the basis for 530 MW of the reduction. Tr. 680:2-7 (Morley); Ex. 502 at 1468. Furthermore, while it has reduced its forecast of the summer peak by 743 MW since 2005, it cannot explain the basis for 70% of that reduction. Tr. 680:8-15 (Morley); Ex. 502 at 1468.

One factor FPL relies upon for the reduction it has made to its forecasts of peak load is a purported increase in energy efficiency as determined by a consultant named ITRON. Tr. 671:12-16, 679:17-680:1 (Morley); Ex. 502 at 1467. Dr. Morley developed an independent variable based upon an engineering study conducted by ITRON, which impacted FPL's forecast of net usage per customer. Tr. 671:20-672:2 (Morley). Dr. Morley acknowledged that her model is reflective of the reliability of the inputs. Tr. 672:3-6 (Morley). Nonetheless, she did not personally assess the reliability of ITRON's estimates, nor did FPL submit the ITRON study as an exhibit, or offer any testimony by an FPL or ITRON employee to attempt to demonstrate that the ITRON estimates were sufficiently reliable to enable FPL to utilize them for purposes of its load forecast. Tr. 672:14-22 (Morley). FPL had the burden to establish every element of its

requested rate increase[21] but failed to produce any evidence concerning this significant element that impacted its load forecast.

Further, the absence of evidence to support the load forecast included the absence of evidence to support the allocation of the load forecast among FPL's rate classes. FPL's net energy for load forecast is not performed on a rate schedule basis. Tr. 682:4-7 (Morley). In fact, FPL's econometric model is not developed by rate class. Tr. 682:8-10 (Morley). Thus, changes in energy efficiency, the economy and population growth, all of which are drivers of FPL's forecast, are not forecast by rate class. Tr. 682:11-14 (Morley). The model also does not forecast the impact of weather-normalized sales by rate class. Tr. 682:15-18 (Morley); Ex. 586. It does not forecast new service accounts ("NSAs") by rate class. Tr. 682:19-21 (Morley). Nor does it maintain data for inactive meters by rate class. Tr. 684:1-2 (Morley); Ex. 503. FPL also does not account for changes in population growth by county, notwithstanding its acknowledgement that to understand population growth, it needs to be tracked by individual counties. Tr. 673:23-674:5 (Morley).

The bottom line is FPL's forecast of projected revenues from sales of electricity by rate class cannot be accepted because FPL's forecasts that underlie the projection have a history of inaccuracy, and there are clear holes in FPL's evidentiary support for the forecasts in the present case. As FPL acknowledges, its forecast of the 2013 summer peak was used to derive its

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[21] *See In re: Application for Increase in Water & Wastewater Rates*, 2009 Fla. PUC LEXIS 415, at *197 (2009) ("The burden of proof in ratemaking cases in which a utility seeks an increase in rates rests on the utility." (referencing *S. Fla. Natural Gas Co. v. Fla. Pub. Serv. Comm'n*, 534 So.2d 695, 697 (Fla. 1988); *Fla. Power Corp. v. Cresse*, 413 So.2d 1187, 1191 (Fla. 1982) ("*Cresse*"); *Sunshine Utils. v. Fla. Pub. Serv. Comm'n*, 577 So.2d 663, 666 (Fla. 1st DCA 1991))); *In re: Application for Increase in Wastewater Rates in Monroe Cnty.*, 2009 Fla. PUC LEXIS 42, at *35 ("As in all utility cases, the Utility has the burden of proof."); *In re: Fuel & Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor*, 2009 Fla. PUC LEXIS 161, at *30-31 (2009) ("It has been well established both by us and the State's courts that the burden of proof lies with the utility who is seeking a rate change." (referencing *Cresse*, 413 So.2d at 1191)). *See also* FLA. ADMIN. CODE § 25-30.450 ("In each instance, the utility must be able to support any schedule submitted, as well as any adjustments or allocations relied on by the utility.").

forecast of NEL, which in turn is an important input to the Consolidated Financial Model that is used to derive its class cost of service study. Tr. 691:17-25 (Morley). FPL's current forecast of NEL for 2013 is 20% lower than the forecasts FPL made in 2007 and 2008. Tr. 692:12-694:11 (Morley); Ex. 507. FPL's current forecast of peak load for 2018 is 4200 MW below the forecast FPL made in the needs determination to justify the Canaveral and Riviera projects. Tr. 681:15-21 (Morley); Ex. 502 at 1473. And as shown above, there are critical inputs to FPL's forecasts for which FPL has offered no evidentiary support.

FPL's essential plea to support its forecast is "trust us." It tells us that its new model is more reliable than the old. Tr. 681:22-682:1 (Morley). However, its justification for its revenue forecast is the same as FPL has offered before - the alleged high degree of statistical significance of its model. Tr. 700:18-701:3 (Morley); Ex. 509 at 17. Of course, had that justification been valid in the past, FPL would not be making the drastic changes it makes to its forecast in this case. This provides another strong reason for the Commission to rule that FPL has not demonstrated that its projected revenues from sales of electricity by rate class are appropriate.

ISSUE-12: What, if any, provisions should the Commission make in setting FPL's rates for the 2013 test year to address uncertainty related to projected billing determinants and revenues?

POSITION: *FPL's use of 10 year actual weather history would produce a more accurate level of mWh revenues than produced by FPL's forecast. FPL's forecast of KWh and KW should be adjusted upward by 0.38% to account for that weather history.*

DISCUSSION:

See SFHHA's Discussions of Issue Nos. 10, 11 and 13. *See also* SFHHA's Discussions of Issue Nos. 139 - 144. *See also* Exhibit 314, Schedules A through D.

ISSUE-13: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting the 2013 test year budget?

POSITION: *The appropriate trend factor for use in forecasting the 2013 test year budget includes the actual weather history in the FPL service territory for the past 10

years, using cooling degree hours as the appropriate weather metric, which is the principal weather variable used by FPL in its net energy for load (mWh) forecast. Baron Exhibit 319 presents the results of FPL's actual weather history using cooling degree hours. *See* also Exhibit 587.*

DISCUSSION:

See SFHHA's Discussion of Issue No. 10.

ISSUE-14: Is FPL's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?

POSITION: *No position.*

QUALITY OF SERVICE

ISSUE-15: Is the quality and reliability of electric service provided by FPL adequate?

POSITION: *No position.*

RATE BASE

ISSUE-16: Should the revenue requirement associated with the West County Energy Center Unit 3 currently collected through the Capacity Cost Recovery Clause be included in base rates?

POSITION: *No position.*

ISSUE-17: Should FPL's adjustment to extend the amortization period of the new SAP general ledger system from 5 years to 20 years be approved?

POSITION: *No position.*

ISSUE-18: Has FPL made the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation and Working Capital for the 2013 projected test year?

POSITION: *No position.*

ISSUE-19: OBJECTION: ***Whether FPL's allegation that a base rate increase is needed to construct the poles, wires, and transformers needed to serve an anticipated 100,000 new customer accounts from the end of 2010 through the end of 2013 is accurate and true? (Mr. Saporito's Issue Objected to by FPL)***

POSITION: *No position.*

ISSUE-20: Are FPL's overhead costs (salaries, materials and supplies, benefits, etc.) related to in-house capital improvement projects properly recorded in rate base?

POSITION: *No position.*

ISSUE-21: Has FPL properly reduced rate base by contributions in aid of construction related to underground placement of distribution and transmission facilities?

POSITION: *No position.*

ISSUE-22: Is FPL's requested level of Plant in Service in the amount of $30,424,227,000 ($31,078,941,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-23: Should capital recovery schedules be approved for Cutler Units 5 and 6, Sanford Unit 3, and Port Everglades? If so, what are the appropriate capital recovery schedules?

POSITION: *No position.*

ISSUE-24: Is FPL's requested level of Accumulated Depreciation in the amount of $11,901,711,000 ($12,970,028,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-25: For purposes of this rate case, should the Commission exercise its authority under Rule 25-6.0141(1)(g) to exclude a proportion of costs incurred by FPL to finance projects during construction from Construction Work in Progress ("CWIP") to be recovered upfront in rate base, and instead treat that proportion of costs subject to an allowance for funds used during construction ("AFUDC") to be recovered over the lives of the underlying assets?

POSITION: *Yes. Several CWIP projects included in rate base are long-lived generation and transmission assets. Customers served by these assets should pay accordingly, consistent with cost causation principles. CWIP imposes the costs on current rate-payers that may not be taking service when the asset ultimately is placed in service. Removing these CWIP projects from rate base and authorizing AFUDC treatment provides FPL the opportunity to recover its financing costs and protects current customers.*

DISCUSSION:

The Commission should exercise its authority under Rule 25-6.0141(1)(g) to exclude a portion of FPL's CWIP from rate base and instead allow the excluded amount to be treated as

being eligible for AFUDC. This decision would immediately ease the pressure on ratepayers by eliminating over $26 million of FPL's revenue requirements and allow customers to pay those costs over time and over the life of the assets used to provide service, rather than upfront. *See* Tr. 3266:18-3267:5 (Kollen).

There are two economically equivalent means for recovering the financing costs of the construction projects planned by FPL: (1) including CWIP in rate base during construction; and (2) capitalizing such costs to CWIP as AFUDC and providing recovery of the costs after the CWIP is cleared to plant in service through a return of (through depreciation expense) and a return on the AFUDC over the lives of the underlying assets. Tr. 3203:4-10 (Kollen). SFHHA and FPL agree that both means of recovery are the same on a net present value basis and the AFUDC approach can provide benefits to both customers and FPL.[22]

In this case, the Commission should allow recovery of a portion of FPL's financing costs through AFUDC. In doing so, the Commission would ensure that the financing costs are recovered over the lives of the underlying assets, result in the costs paid by customers served by the construction projects and ensure intergenerational equality among customers. Tr. 3203:14-3204:19 (Kollen). Many of the CWIP projects that FPL seeks to include in rate base are long-lived generation and transmission assets, rendering the recovery of financing costs as AFUDC all the more appropriate. Tr. 3205:19-20 (Kollen); Ex. 329 (LK-10). FPL has not demonstrated that it is necessary for FPL to recover such costs upfront before the assets provide any service.

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[22] Tr. 3203:10-13 (Kollen); Tr. 3263:8-3264:4 (Kollen); Tr. 3946:15-21 (Deason); Tr. 3948:8-12 (Deason). The customers would benefit by paying reduced rates up front and by paying the costs over a longer period of time; FPL would benefit by recovering a steady amount of costs over time and by being able to include a higher dollar amount in rate base at a later date.

While FPL Witness Deason is correct in stating that a higher threshold for AFUDC accrual would effectively reduce total project costs in rate base, this would not lead to reduced rates overall. Tr. 3859:8-11 (Deason). Instead, customers would pay the same on a net present value basis. Tr. 3263:23-3264:4 (Kollen).

Rule 25-6.0141(1)(g) provides the Commission with the necessary authority to exclude an amount of CWIP from FPL's rate base and instead allow the excluded amount to be eligible for treatment as AFUDC. Tr. 3205:6-14 (Kollen). The Commission therefore has the ability in this case to review the construction projects claimed by FPL, assess the overall potential impact on rates due to including the CWIP in rate base, and determine whether the recovery of a portion of the financing costs is better suited for AFUDC treatment.

FPL opposes this recommendation through the testimony of Mr. Deason. However, Mr. Deason appears to conflate issues by implying that in order to modify the portion of FPL's CWIP eligible for rate base treatment, as recommended by Mr. Kollen, the Commission must adopt a new policy, applicable to all utilities, without the benefit of a rulemaking proceeding. Tr. 3856:20-3857:5 (Deason). Mr. Deason's interpretation is incorrect. The Commission does not need to create a rulemaking proceeding or issue a new widespread policy in order to modify FPL's CWIP in rate base based upon the specific facts of this case. In fact, Mr. Deason confirmed that the Commission maintains the "limited discretion to exclude a portion of CWIP from rate base and allow it to accrue AFUDC instead." Tr. 3858:15-19 (Deason).

In attempting to rebut SFHHA's arguments, Mr. Deason also suggests that the decision to reduce FPL's CWIP in rate base and instead authorize recovery through AFUDC treatment could "put financial strains on a utility" and "threaten bond ratings." Tr. 3858:6-9 (Deason). Such an implication holds no weight given the facts at issue in this case. A decision to exclude $250 million of CWIP in rate base in favor of AFUDC treatment would not threaten FPL's "financial integrity" or otherwise threaten FPL's bond ratings. *See* SFHHA's Discussion of Issue No. 59.

For the foregoing reasons, the Commission should exercise its authority under Rule 25-6.0141(1)(g) to exclude the $250 million of FPL's CWIP from rate base as proposed by SFHHA and instead allow FPL to accrue AFUDC on the excluded amount.

ISSUE-26: If the answer to Issue No. 25 is in the affirmative, what proportion of costs incurred by FPL to finance projects during construction should be treated as CWIP to be recovered upfront in rate base, and what proportion should be treated subject to AFUDC to be recovered over the lives of the underlying assets?

POSITION: *The Commission should reduce the CWIP in rate base proposed by FPL ($501.676 million) by approximately 50%, or $251.676 million, to a level of $250 million. The portion removed from CWIP should qualify for AFUDC treatment.*

DISCUSSION:

Adoption of SFHHA's recommendation to make costs eligible for treatment as AFUDC to the extent the projects from which the costs arise have a construction period of at least 6 months, rather than 1 year, and have a threshold project cost of $0.5 million, rather than 0.5 percent of FPL's total plant in service would result in a reduction of $251.676 million of CWIP from rate base. Tr. 3206:12-22 (Kollen). SFHHA Witness Kollen reviewed all of the projects claimed by FPL and assessed the pattern of FPL's construction expenditures and the larger dollar amounts of FPL's generation and transmission projects, in order to determine the appropriate portion of costs to be removed from CWIP. Tr. 3264:5-22. *See* SFHHA's Discussion of Issue No. 25.

ISSUE-27: Is FPL's requested Construction Work in Progress in the amount of $501,676,000 ($514,978,000 system) for the 2013 projected test year appropriate?

POSITION: *No. $251.676 million of FPL's CWIP in rate base should be removed and instead become eligible for treatment as AFUDC, thereby reducing CWIP in rate base to $250 million for the 2013 test year. SFHHA Witness Kollen's criteria should be applied for the accrual of AFUDC to provide for intergenerational equity and allow for the recovery of long-lived assets over the lives of such assets, rather than providing for upfront recovery before their in-service dates.*

DISCUSSION:

See SFHHA's Discussion of Issue Nos. 25 and 26.

ISSUE-28: Is FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel for the 2013 projected test year appropriate?

POSITION: *No. FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel is not appropriate because such costs are simply an estimate for ratemaking purposes, and FPL cannot project these costs with any degree of certainty.*

DISCUSSION:

FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel is simply an estimate for ratemaking purposes. On cross-examination, FPL Witness Ousdahl admitted that FPL does not always know the full scope or the accuracy of its projections (Tr. 3801:18-25 (Ousdahl)), adding that "there's estimation risk" and that "things change" and "estimates may be off." Tr. 3802:12-15 (Ousdahl). This testimony evidences that FPL's estimated Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel expenses could be substantially different than its actual expenses. Estimating these expenses is further exacerbated when used in combination with FPL's current pre-paid methodology,[23] as FPL proposed here, which may result in substantial over-recovery thereby producing unjust and unreasonable rates. *See* discussion under Issue No. 43.

ISSUE-29: Is FPL's requested level of Nuclear Fuel of $565,229,000 ($576,317,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-30: Should the Commission approve FPL's request to include the Fort Drum, McDaniel, and Hendry County proposed generation sites in Plant Held For Future Use?

POSITION: *No position.*

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[23] *See* SFHHA's Discussion of Issue No. 43 regarding FPL's current use of pre-paid reserve accounting.

ISSUE-31: Should the Commission approve FPL's request to include nine proposed transmission line sites for which projected in-service dates are either 2022-2023 or indeterminate ("TBA") within Plant Held For Future Use?

POSITION: *No position.*

ISSUE-32: Is FPL's requested level of Property Held for Future Use in the amount of $230,192,000 ($237,400,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-33: Should any adjustments be made to FPL's fossil fuel inventories for the 2013 projected test year?

POSITION: *No position.*

ISSUE-34: Should unamortized rate case expense be included in Working Capital?

POSITION: *No. The Commission's long-standing practice of excluding unamortized rate case expense from working capital apportions the cost of a rate case between ratepayers and shareholders customers. Customers should not be required to pay a return on funds spent to increase their rates. Further, the amortization period proposed is short, which minimizes carrying costs. Such costs are typically financed with short-term debt, and excluding such costs eliminates the potential for overrecovery.*

DISCUSSION:

The Commission should exclude unamortized rate case expense from FPL's working capital. Not only has the Commission historically excluded unamortized rate case expenses from rate base, but the Commission rejected a similar request to include such expenses in FPL's last base rate proceeding (stating "[w]e do not agree with the Company that the unamortized balance of rate case expense should be included in rate base").[24] The Commission also recently rejected Gulf Power Company's ("Gulf Power") request to include unamortized rate case expense in working capital, explaining:

> [W]e have a long-standing practice in electric and gas rate cases of excluding unamortized rate case expense from working capital, as demonstrated in a number of prior cases. [citation omitted] The

[24] FPL 2010 Rate Order, *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 080677-EI, Order No. PSC-10-0153-FOF-EI at 164 (2010).

> rationale for this position is that ratepayers and shareholders should share the cost of a rate case; i.e., the cost of the rate case would be included in O&M expense, but the unamortized portion would be removed from working capital. This practice underscores the belief that customers should not be required to pay a return on funds spent to increase their rates.

In re: Petition for increase in rates by Gulf Power Company, Docket No. 110138-EI, Order No. PSC-12-0179-FOF-EI at 30 (2012) ("Gulf Power Order"). In reaching that conclusion, the Commission rejected Gulf Power's argument that the expenses should be allowed because they are prudently incurred business expenses. Gulf Power Order at 30.

FPL essentially repeats the arguments made by Gulf Power and asserts that FPL should be allowed to include the unamortized balance of rate case expenses in working capital in order to fully recover such expenses, which FPL argues requires the opportunity to earn a return on the unamortized balance of the rate case expenses.[25] FPL's assertions do not present any new facts or arguments that would support modification of the Commission's long-standing policy of excluding such costs from working capital.

FPL's request also should be rejected because FPL would overrecover the carrying costs on the unamortized amount if recovery is based on the 2013 test year. Such overrecovery would result because although the unamortized amount would decline each year, recovery could extend beyond the proposed amortization period. Tr. 3201:16-3202:2 (Kollen).

For these reasons, the unamortized balance of FPL's rate case expenses should be excluded from working capital.

ISSUE-35: Should Account 143, Other Accounts Receivable, be included in working capital for the 2013 test year?

POSITION: *SFHHA supports OPC.*

[25] *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 120015-EI, Order No. PSC-12-0428-PHO-EI at 60-61 (2012) ("Prehearing Order"); Tr. 1024:13-19 (Ousdahl).

ISSUE-36: Should an adjustment be made to the amount of Account 182.3, Other Regulatory Assets, included in working capital for the 2013 test year?

POSITION: *No position.*

ISSUE-37: Should an adjustment be made to the amount of Account 186, Miscellaneous Deferred Debits, included in working capital for the 2013 test year?

POSITION: *No position.*

ISSUE-38: Should unbilled revenues be included in working capital for the 2013 test year?

POSITION: *No. The unbilled revenues represent an estimate of revenues earned during a particular month, but not yet billed. There is no related carrying cost because unbilled revenues serve as an accounting placeholder for a future receivable and do not represent a cost that FPL must finance at the end of each month. Further, FPL does not incur incremental costs to earn unbilled revenue.*

DISCUSSION:

In the event the Commission does not adopt SFHHA's recommended lead/lag approach to calculating cash working capital, the Commission should exclude all unbilled revenues (Account 173 Accrued Utility Revenues) from working capital.[26]

The unbilled revenues account represents the estimated revenues for services rendered during a particular month, but not yet billed. Tr. 3196:23-3197:2 (Kollen). Each month, this accounting is reversed for the prior month because the prior month's unbilled revenues are billed in the current month, and a new estimate for the current month is recorded. Tr. 3197:2-5 (Kollen). These estimates do not reflect unbilled revenues for FPL's clause revenues and consist of unbilled revenues related to base rates only. Tr. 3197:14-18; Ex. 327 (LK-8). FPL does not incur a carrying cost on the unbilled revenues, which serve only as a placeholder for future revenues. Tr. 3197:7-9 (Kollen). Because the unbilled revenues recognized are for base rates only, FPL does not incur incremental costs to earn these estimated unbilled revenues. Tr.

[26] If the Commission adopts the lead/lag approach to calculate FPL's cash working capital and/or uses $0 as a proxy for FPL's cash working capital, unbilled revenues would not be an issue.

3197:13-15 (Kollen). Further, through billed revenues, each month FPL recovers its fixed costs that do not vary based upon monthly sales (*e.g.*, rate base investment, depreciation expense, non-fuel O&M expense). *See* Tr. 3197:22-3198:3. FPL is therefore not "out the money for having provided the energy" because "the fixed costs are recovered through the base rates." Tr. 3258:18-3259:5. FPL's ability to recover its costs is also protected by the fact that the revenue requirement is calculated based upon a projected year, rather than a lagged test year corresponding to FPL's unbilled service periods. Tr. 3197:22-3198:5 (Kollen).

With respect to FPL Witness Ousdahl's efforts to rebut Mr. Kollen's arguments, the case law cited either does not bind the Commission to the inclusion of unbilled revenues in working capital or is outdated and warrants review. *See, e.g.*, Tr. 3740:11-14 (Ousdahl), Tr. 3258:3-8 (Kollen). In the FPL 2010 Rate Order, unbilled revenues was a stipulated issue (with no factual issues in dispute) and therefore was not addressed. Order Nos. 13537 and 11437 were issued in July 1984 and December 1982, respectively. In addition, the appropriate treatment of unbilled revenues was not at issue in FPL's prior rate case. FPL 2010 Rate Order at 235. FPL did not cite to any recent case law in which the Commission has assessed the appropriateness of including unbilled revenues in working capital. Instead, Ms. Ousdahl merely asserted, without explanation or quantification, that FPL must finance the costs of providing service and earn a return, whether invoiced or not. Tr. 3740:7-9 (Ousdahl). While she discussed the accounting treatment for unbilled revenues associated with clause recoveries, in her two pages of rebuttal testimony regarding this particular issue, Ms. Ousdahl did not squarely address every argument raised in Mr. Kollen's testimony explaining why FPL's unbilled revenues should be excluded from working capital. Tr. 3740:15-3741:18 (Ousdahl). Therefore, the Commission should review the appropriateness of including unbilled revenues in working capital and adopt

SFHHA's recommendation to exclude such unbilled revenues from FPL's working capital in the 2013 test year. *See* discussion under Issue No. 40.

ISSUE-39: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses be included in the calculation of the working capital allowance?

POSITION: *No position.*

ISSUE-40: What is the appropriate methodology for calculating FPL's Working Capital for the 2013 projected test year?

POSITION: *The Commission should adopt a proxy for the results of a lead/lag approach because FPL has not prepared a cash working capital study using the lead/lag approach and refused to perform one. In comparison to FPL's balance sheet approach, which is outdated and fails to accurately quantify FPL's cash working capital investment, the lead/lag approach more accurately quantifies the investment by tracking and measuring the timing of cash flows related to revenues and expenses.*

DISCUSSION:

FPL's balance sheet approach to calculating cash working capital does not produce accurate results.[27] Therefore, the Commission should adopt a proxy for cash working capital that would otherwise be calculated using the lead/lag approach and require FPL to quantify the cash working capital requirement in its next base rate case using the lead/lag approach. The lead/lag methodology is the predominant methodology used by public service commissions throughout the country and is a more sophisticated and accurate measurement of the working capital requirement. It is superior to the balance sheet approach. Tr. 3259:11-15, 3273:18-24 (Kollen).

The lead/lag methodology is the most sophisticated and accurate approach used by utilities for calculating cash working capital and tracking and measuring the timing of cash flows related to revenues and expenses. In contrast, the balance sheet approach is outdated and limits

[27] Tr. 3189:5-12, 3191:1-5 (Kollen) (noting that the balance sheet approach is "outdated," "very imprecise," "fails to accurately quantify the utility's cash working capital," and "could result in a significant overstatement of the cash working capital requirement").

the measurement of the cash working capital investment to a one day end of month snapshot of the amounts in various balance sheet accounts. Tr. 3189:12-19 (Kollen). Unlike the balance sheet approach, the lead/lag approach more accurately measures the rate base investment resulting from the actual time-weighted delays in the receipt of cash resulting from sales compared to the delays in the disbursement of cash resulting from expenses. Tr. 3189:19-3190:14 (Kollen).

Any objections to the Commission requiring the use of the lead/lag approach based on the cost of performing a lead/lag study is unwarranted. Such costs would be minimal compared to the revenue requirement resulting from the cash working capital rate base investment. Tr. 3195:7-9 (Kollen). FPL's additional objection that it has not or cannot prepare a cash working capital study using the lead/lag approach is also questionable. Tr. 3193:11-22. While FPL claims it does not prepare cash budgets, in Mr. Kollen's experience, FPL would necessarily have to prepare a cash budget in order to project the prior year and test year capitalization included in Exh. 487 at MFR Schedule D. Tr. 3193:13-3194:16 (Kollen). Regardless, the costs expended to implement the lead/lag approach should be incurred because the Commission and FPL's customers otherwise run the risk that FPL's cash working capital requirement is overstated based upon the balance sheet approach. Tr. 3191:1-13 (Kollen). As demonstrated by Mr. Kollen, the balance sheet approach tends to overstate the investment in receivables compared to payables because that approach fails to accurately consider the time weighted leads and lags that would otherwise be specifically measured using the lead/lag approach. Tr. 3191:2-7 (Kollen).

While FPL has routinely used the balance sheet approach to calculating cash working capital since the early 1980s, the Commission should reconsider this issue in order to improve the accuracy of the quantification of this component of rate base. Tr. 3875:15-19 (Deason). At

the very least, the Commission should require FPL to perform and file a lead/lag study in the next base rate proceeding, which would demonstrate the advancements made in cash management techniques and sophisticated software developments, and result in better, more accurate, data. The fact that the Commission has previously adopted the balance sheet approach, as argued by FPL Witness Deason, does not prevent a change to this methodology. *Id.*

For these reasons, the Commission should adopt SFHHA's recommendation to use $0 as a proxy for FPL's cash working capital for the 2013 projected test year that would otherwise be calculated using the lead/lag approach. The Commission should also require FPL to quantify its cash working capital requirement in its next base rate case using the lead/lag approach.

ISSUE-41: If FPL's balance sheet approach methodology for calculating its Working Capital is adopted, what adjustments, if any, should be made to FPL's proposed Working Capital?

POSITION: *The Commission should set FPL's cash working capital at $0 as a proxy for the results of the lead/lag approach, which is a conservative approach given that lead/lag studies frequently result in substantially negative cash working capital rate base amounts due to sophisticated cash management techniques used by utilities to minimize investments in cash working capital. This results in a net reduction to FPL's working capital of $156.284 million on a jurisdictional basis.*

DISCUSSION:

In the event the Commission does not adopt SFHHA's recommendation to use the lead/lag methodology to calculate cash working capital, and instead allows FPL to use the balance sheet approach, the Commission should reduce FPL's cash working capital to a level of $0. In effect, the $0 is a proxy amount and results from setting FPL's balance sheet accounts for customer receivables, accrued utility revenues, prepayments, and various accounts payable (*i.e.*, Account Nos. 142, 173, 165, 232, 234, 236 and 237) at a reasonable amount. *See* Ex. 326 (LK-7). In the experience of SFHHA Witness Kollen, cash working capital calculations using the lead/lag methodology frequently result in *substantially negative* cash working capital rate base

amounts. Tr. 3195:21-23 (Kollen). Mr. Kollen explained that this result is "consistent with the sophisticated cash management techniques used by utilities today to minimize their investments in cash working capital." Tr. 3195:21-3196:2 (Kollen). In contrast, the balance sheet approach "is very imprecise" and "could result in a *significant overstatement* of [FPL's] cash working capital requirement." Tr. 3191:1-5 (Kollen) (emphasis added). Therefore, the $0 proxy recommended by SFHHA is both conservative and a more precise and accurate level of working capital than that proposed by FPL. The use of a $0 proxy is also appropriate because FPL failed to conduct a lead/lag study itself and, despite requests directed to FPL during discovery, refused to provide the data necessary for Mr. Kollen to undertake a lead/lag study and accurately calculate FPL's cash working capital.[28] For these reasons, the Commission should adjust FPL's working capital by adopting a $0 proxy for FPL's cash working capital. *See also* SFHHA's Discussion of Issue Nos. 40 and 44.

ISSUE-42: Are FPL's adjustments to the Asset Retirement Obligation (ARO) revenue neutral as required by Commission rule?

POSITION: *No position.*

ISSUE-43: Should the nuclear maintenance reserve be modified to reflect post-paid reserve accounting in lieu of pre-paid reserve accounting?

POSITION: *Yes. SFHHA supports the post-paid method of reserve accounting because, compared with the pre-paid method, the post-paid method is less expensive for FPL customers, is more accurate, and does not cause over-recovery issues at the end of a unit's useful service life.*

DISCUSSION:

The Commission should direct FPL to modify the nuclear outage maintenance expense accrual methodology from the current pre-paid reserve accounting methodology to a post-paid reserve accounting methodology. As SFHHA Witness Kollen testified, "[t]he post-paid

[28] Tr. 3275:6-3276:1 (Kollen); Ex. 322 (LK-3); Ex. 323 (LK-4); Ex. 324 (LK-5); Ex. 325 (LK-6).

approach is widely used by other commissions, [is] conceptually superior, provides a more accurate matching of the maintenance expense of the period of maintenance benefits, which is a period of time after the outage, not before the outage, and it provides the company full recovery of its outage costs." Tr. 3242:20-3243:1, 3270:15-17 (Kollen).

The difference between the pre-paid versus post-paid methods concerns the timing of when the outage costs are charged to expense (before the outage for the pre-paid and after the outage for the post-paid). The difference in timing is important; the post-paid method reduces costs for FPL's ratepayers. It also eliminates issues at the end of a nuclear generating unit's useful service life that can arise due to over-funding of the costs of nuclear outages.

The post-paid method is the most widely-accepted accounting methodology for nuclear outage maintenance expenses used by state commissions as well as by the Federal Energy Regulatory Commission ("FERC"). *See* Ex. 592; Tr. 3242:20-21, 3270:9-19 (Kollen). As compared to the pre-paid method, the post-paid method: (1) is less costly for ratepayers, (2) is more accurate, and (3) eliminates potential issues that could arise at the end of life of a nuclear unit. First, with regard to being less costly, the pre-paid method is more costly because ratepayers must *pay* a return on the income taxes arising from FPL's recovery of costs prior to the outage in addition to paying for the costs before they actually are incurred.[29] Under the post-paid alternative, ratepayers *receive* a return on the income tax savings that are achieved when the costs actually are incurred because those costs are deducted for income tax purposes before FPL recovers the costs of the outage from customers. Tr. 3217:10-13 (Kollen). Furthermore, while customers benefit from utilizing the post-paid alternative, the net present value to FPL is the

[29] Tr. 3217:7-10 (Kollen), Tr. 3806:21-3807:3 (Ousdahl) (agreeing that FPL does pay income tax on prepayments that customers make to the nuclear outage maintenance reserve).

same, regardless which methodology is used.[30] Additionally, contrary to FPL Witness Ousdahl's testimony that the switch to the post-paid methodology would only provide a "one time rate reduction" (Tr. 3772:13-18 (Ousdahl)), the reduced cost of income taxes is an ongoing savings that will continue beyond the transition from the pre-paid to the post-paid method.

Second, the post-paid method is more accurate because the utility records only the actual cost of any outage in the reserve and the amortization expense is based on the actual cost of the outage over the subsequent 18-month period. Unlike the pre-paid method, the utility does not have to estimate or true-up any variance between actual and estimated expenses.[31] Accordingly, the post-paid method more accurately matches recovery of the maintenance costs incurred to allow the unit to continue operating until the next outage. Tr. 3218:9-14 (Kollen).

Third, the post-paid method eliminates potential over-recovery issues. In particular, the post-paid method eliminates stranded liability issues associated with the pre-paid method. Under the pre-paid method, there is an end of life stranded liability for maintenance outage costs. Tr. 3217:14-21, 3218:15-23 (Kollen). Under the prepaid method, the utility's accounting effectively assumes that the usual cycle of refueling and costs will continue to apply, even after the unit's last refueling, thereby continuing the accrual of expense and recovering that expense from ratepayers for an event that will never occur. In that scenario, the pre-paid method results in a stranded liability for future outages that will not occur. FPL suggests it will avoid this circumstance by suspending any outage accruals when the last outage is evident. Tr. 3773:16-22 (Ousdahl). While that may ensure that there is no further outage expense for accounting

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30 Tr. 3804:22-3805:7 (Ousdahl) (stating that regulatory accounting ensures that there is no difference from FPL's perspective whether the pre-paid or post-paid methodologies are utilized).

31 Tr. 3270:24-3271:11 (Kollen); *see also* Tr. 3801:18-25 (Ousdahl) (recognizing that outage costs are estimated and FPL does not know the full extent of the cost until it actually occurs); Tr. 3802:6-12 (Ousdahl) (agreeing that there is estimation risk with the pre-paid alternative); Tr. 3803:8-12 (Ousdahl) (agreeing that true-ups are necessary if actual costs differ from estimated costs).

purposes and benefit FPL's earnings, it fails to address the harm to customers from the continuing recovery for expenses the utility no longer will incur. Those problems, however, do not exist with the post-paid approach because the actual cost associated with the final maintenance outage will be amortized over the each unit's remaining life, ensuring that ratepayers do not pay for an outage that will never occur, while also ensuring that the utility neither under- nor over-recovers. Tr. 3217:14-3218:8 (Kollen).

Although the Commission previously has approved the use of the pre-paid method for FPL and Florida Progress, switching FPL's nuclear outage maintenance expense accrual methodology to the post-paid method would bring FPL into conformity with other utilities that use post-paid reserve accounting (Tr. 3270:9-19 (Kollen)), reduce costs to FPL's ratepayers, and ensure that there is no financial harm to FPL. Therefore, the Commission should require FPL to switch to the post-paid method.

ISSUE-44: Is FPL's requested level of Working Capital in the amount of $1,217,209,000 ($2,032,805,000 system) for the 2013 projected test year appropriate?

POSITION: *No.*

DISCUSSION:

FPL's requested level of working capital for the 2013 projected test year is not appropriate. The Commission should reduce FPL's working capital by $156.284 million on a jurisdictional basis. This net reduction results from the conservative use of $0 as a proxy for FPL's cash working capital had FPL calculated this amount using the lead/lag methodology. *See* SFHHA's Discussion of Issue Nos. 40 and 41.

ISSUE-45: Is FPL's requested rate base in the amount of $21,036,823,000 ($21,470,413,000 system) for the 2013 projected test year appropriate?

POSITION: *No. FPL's requested jurisdictional rate base for the 2013 projected test year should be reduced by a minimum of $395.756 million to a level of $20,641.067 million. This incorporates SFHHA's recommendations regarding cash working

capital, nuclear maintenance reserve, unamortized rate case expense and CWIP in rate base.*

DISCUSSION:

See SFHHA's Discussion of Issue Nos. 25, 26, 27, 34, 41, 43, 44, 110 and 111.

COST OF CAPITAL

ISSUE-46: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

POSITION: *If SFHHA's adjustments to FPL's as-filed rate base components are adopted by the Commission, then a corresponding adjustment should be made to the amount of ADIT included in FPL's capital structure. As shown in Ex. 346 at p. 1, Section II (Ex. LK-27), SFHHA's rate base adjustments would increase FPL's ADIT capitalization by $3.898 million. As a result the total amount of ADIT that should be included in FPL's capital structure is $4,369.074 million.*

DISCUSSION:

The appropriate amount of accumulated deferred taxes ("ADIT") to include in FPL's capital structure is $4,369.074 million. That total reflects adjustments made by SFHHA to FPL's as-filed rate base. A corresponding ADIT adjustment is necessary to reflect the total cost of service effect of SFHHA's adjustments. If FPL's as-filed rate base is adjusted without a corresponding adjustment to FPL's as-filed ADIT balance, then FPL's rates will not reflect its actual costs. Just and reasonable rates require that adjustments flow through all aspects of FPL's cost of service.

FPL filed to include $4,365.176 million of ADIT in its capital structure[32] based upon its as-filed rate base. SFHHA Witness Kollen adjusted FPL's as-filed rate base by (1) modifying FPL's Nuclear Maintenance Reserve from pre-paid to post-paid and (2) eliminating the

[32] Ex. 487 at MFR Schedule D-1a, p. 1, col. (7) "Jurisdictional Amount," ln. 6 "Deferred Income Tax"; Ex. 346 at p. 1, Section I. "FPL Cost of Capital Per Filing," col. "Jurisdictional Adjusted Capital," ln. "Deferred Income Tax" (Ex. LK-27).

unamortized rate case expense.[33] As calculated in Ex. 345 (Ex. LK-26), SFHHA's rate base adjustments increase the ADIT in FPL's capital structure by $3.898 million. If SFHHA recommended adjustments are made to FPL's as-filed rate base components by the Commission, then the corresponding adjustment to FPL's as-filed ADIT capitalization should also be made. The resulting total amount of ADIT that should be included in FPL's capital structure is $4,369.074 million.[34]

ISSUE-47: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

POSITION: *No position.*

ISSUE-48: What is the appropriate cost rate for short-term debt for the 2013 projected test year?

POSITION: **See* August 31, 2012 Stipulation.*

ISSUE-49: What is the appropriate cost rate for long-term debt for the 2013 projected test year?

POSITION: *No position.*

ISSUE-50: What is the appropriate cost rate for customer deposits for the 2013 projected test year?

POSITION: *No position.*

ISSUE-51: What is the appropriate equity ratio that should be used for FPL for ratemaking purposes in this case?

POSITION: *At a ROE of no greater than 9.00%, SFHHA would not oppose FPL's as-filed for common equity balance of $9,684.101 million. *See* Tr. 3030:1-2 (Baudino). For ROE levels above 9.00%, FPL's equity ratio should decrease by 2% for every 50-basis-point ROE increase. FPL's equity ratio (59.7%) of investor-supplied capital exceeds that of every electric utility holding company included in FPL's Utility Proxy Group. *See* Issue Nos. 59, 61.*

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33 The rationale for those adjustments are described in detail in Issue Nos. 43 and 34.

34 Ex. 346 at p. 1, Section II. "FPL Cost of Capital Adjusted to Reflect ADIT Effects of Rate Base Adjustments," col. "Jurisdictional Adjusted Capital," ln. "Deferred Income Tax" (Ex. LK-27).

DISCUSSION:

So long as the Commission adopts SFHHA Witness Baudino's recommended ROE, the appropriate equity ratio for FPL for ratemaking purposes is 46.03%.[35] That ratio is calculated using FPL's as-filed equity component of $9,684.101 million[36] and, as explained in Issue No. 46, SFHHA's adjustment to FPL's as-filed ADIT capitalization.

The equity ratio goes to the heart of the most important issues of this case. While FPL purports to take various measurements of what it characterizes as excellent management, one conspicuous absence among its many incomplete quantifications is any assessment of the efficiency with which it has managed its capital structure. That omission is not coincidental. FPL has maintained an excessive equity component of capital structure, driving up rates because equity is far more expensive than debt. Equity's cost of ratepayers *is over three and a half times that of FPL's debt.*[37] Thus, the thick equity proposed by FPL for its capital structure for regulatory purposes is extremely costly in lieu of debt.[38]

SFHHA Witness Baudino's recommended ROE and FPL's as-filed equity ratio result in a just and reasonable rate of return. If the Commission adopts all of SFHHA's adjustments, including its recommended ROE, FPL will at least retain its current "A-" rating from S&P and

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35 Ex. 346 at p. 2, Section III, col. "Capital Ratio," ln. "Common Equity" (Ex. LK-27).

36 *Compare* Ex. 346 at p. 2, Section III., col. "Capital Ratio," ln. "Common Equity" (Ex. LK-27) *with* Ex. 487 at MFR Schedule D-1a, p. 1, col. (7), ln. 4.

37 FPL's embedded cost of debt is projected to be between 5.20% and 5.13%, depending upon whether Staff's recommended adjustment is accepted. *See* Tr. 4876:18-22, 4881:19-25 (Dewhurst). FPL's requested equity return of 11.50% (including the 25-basis-point adder for allegedly excellent management), and the gross up (approximately 60%, *see* Ex. 487 at Schedule C-44, ln. 11) for federal and state income taxes on FPL earnings, produces an aggregate cost of equity of 18.4% (*i.e.*, 11.5% plus the 60% tax gross-up).

38 In his deposition, FPL's CFO admitted that FPL's capital structure should not be maintained to attain a certain rating but to attain the "best long term value proposition" for its customers. Ex. 113 (Dewhurst Deposition Tr. 95:22-96:14).

may even have the opportunity to return to an "A" rating.[39] As SFHHA Witness Baudino testified:

> it is an economically inefficient outcome for ratepayers to support a higher than necessary equity ratio for FPL. There is a transfer of income in the form of economic rents being paid by FPL's customers to FPL, a monopoly provider of electric service. Regulation should prevent this kind of income transfer, which benefits shareholders to the detriment of ratepayers.

Tr. 3029:12-16 (Baudino). In addition, FPL's as-filed equity ratio is only necessary to support the highly leveraged operations of FPL's unregulated affiliate NEER.

FPL has stressed that its capital structure must be considered in the context of S&P's analysis so that its power purchase agreement ("PPA") obligations are added to its debt obligations when assessing its financial risk. *See* Tr. 1712:19-1713:12 (Avera); Tr. 4749:22-4750:17 (Dewhurst). However, as admitted by FPL Witness Avera, S&P's analysis of FPL's capital structure takes into account far more than the PPAs referenced by FPL.[40] S&P's ratings are based upon the consolidated operations of NEEI, which includes both FPL and NEER. Since NEER's equity ratio is only 21.1%, FPL's equity ratio (from investor sources) must be maintained at a very high level (59.6%), Tr. 3002:9-10 (Baudino); Tr. 1897:16-18 (Dewhurst), so that the consolidated parent's equity ratio can meet S&P's standards to maintain the enterprise's corporate credit rating. On May 7, 2012, FPL Treasurer Paul Cutler stated that "*NextEra Energy* has one of the strongest balance sheets in the industry." Ex. 302 at p. 15 (emphasis added) (Ex. RAB-9). It is clearly FPL and NEEI's goal to maintain a strong consolidated balance sheet to

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39 *See* Issue No. 58 at pp. 65 to 67; *see also* Ex. 188 (Late Filed Exh. No. 2 accompanying Baudino deposition).

40 Tr. 1795:12-1796:14 (Avera). Notably, the FPL witness that spearheaded the PPA adjustment to FPL's capital structure (FPL Witness Avera) and testified that the adjustment should mirror S&P methodology had "no basis of knowledge" for some of the information included in the S&P report he cited in support of his position. Tr. 1799:9-13 (Avera).

lower the overall debt costs of all of its affiliates, including NEER.[41] As FPL Witness Avera testified, it is simply a matter of arithmetic that given a very low equity ratio at FPL's unregulated affiliate, FPL must maintain a higher equity ratio in order to reach an equity ratio for the parent company that meets S&P's standards. Tr. 1798:5-13 (Avera). FPL may disagree with S&P that NextEra Energy Resources recourse debt should be included in S&P's analysis, but there is no denying that S&P considers that debt when assessing the consolidated capital structure and FPL's bond rating.[42] As FPL Witness Avera and FPL's CFO explained, even when FPL disagrees with the methodologies employed by the credit ratings agencies, FPL still must work within those methodologies to maintain its credit rating.[43]

In addition, FPL will have more ability to take on debt in its capital structure in the next three to five years. SFHHA Witness Baudino has noted:

> FPL's PPA obligations are going to decline significantly in 2015. Dr. Avera and FPL's 2012 10-K report noted that FPL's take-or-pay purchased power contracts with the Jacksonville Electric Authority and subsidiaries of the Southern Company provide 1,330 mWs of power through 2015 and then decline to 375 mWs thereafter through 2021. This means that 949 mWs of imputed debt from the PPAs will decline significantly within the next 2 - 3 years.

Tr. 3028:12-18 (Baudino). As a result, FPL will be able to shift to more low cost debt in its capital structure without affecting its capitalization as viewed by S&P. In addition, Value Line, a source that FPL Witness Avera has stated is relied upon by investors, estimates that NEEI's long

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41 FPL Witness Avera admitted upon cross examination that he could not identify a single other entity engaged in the same type of business as NEER that had an "A-" credit rating and a comparable level of leverage. Tr. 1821:6-12 (Avera). He also admitted that NEER's financial profile depended at least in part on the results of FPL's operations. Tr. 1821:13-1822:3 (Avera).

42 Ex. 550 at pp. 7-8, Table 3 (Bates No. Staff 000806-000807); Ex. 113 (Dewhurst Deposition Tr. 28:18-29:20).

43 Tr. 1793:1-11 (Avera); Ex. 113 (Dewhurst Deposition Tr. 95:1-14); Tr. 1794:3-14 (Avera); *see* Tr. 4750:13-17 (Dewhurst Rebuttal) (explaining that whether or not the intervenors agree with an S&P adjustment, the adjustment is still made to FPL's capital structure); Tr. 1793:4-11 (Avera) (noting that while FPL Witness Avera may disagree with a credit rating agency's analysis, investors still rely on the information provided).

term debt ratio will begin to decline from 58.2% at the end of 2011 to 52.5% between 2015 and 2017.[44] The decrease in debt at FPL's parent company will allow FPL to maintain more long term debt without affecting its credit rating in the future. Both of these developments suggest that FPL will have the opportunity to lower ratepayer costs by shifting towards more debt financing in the future. Further, as FPL Witness Avera noted, reduced interest rates on FPL's existing debt enhance financial flexibility. Tr. 1823:18-1824:18 (Avera). FPL has refinanced numerous debt issuances since its last rate case (Tr. 4876:18-4877:5 (Dewhurst)), lowering the rate of interest and thus the call of such debt on FPL's cash flows. They also suggest that any perceived barriers to employing more debt capital at FPL are eroding.

As SFHHA Witness Baudino explained, "[i]f a higher ROE is adopted [than the ROE recommended by SFHHA], the capital structure issue would warrant much greater skepticism, because it means that ratepayers are not getting one of the prime benefits of a thick equity cushion, namely the benefit of the lower resulting risk." Tr. 3030:2-5 (Baudino). To counteract that effect, the Commission should decrease FPL's investor supplied equity ratio by 2% (from 59.6% to 57.6% or a decrease in $327.446 million in equity)[45] for every 50-basis-point increase in the ROE above SFHHA's recommended amount. Tr. 3030:12-3031:4 (Baudino). "This appropriately balances the interests of shareholders and ratepayers."[46]

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44 Ex. 625 at 7th page from the end (NextEra Energy Inc. Value Line Sheet, cols. "2011" and "Value Line Pub. LLC 15-17," ln. "Long-Term Debt Ratio," reflecting 58.2% and 52.5%, respectively).

45 Under SFHHA Witness Baudino's approach, the decrease in equity would be added to FPL's long term debt, increasing the long term debt ratio but leaving all other capitalization ratios intact. However, the Commission could also allocate a pro rata share of the decrease in equity to both long term debt and short term debt, lowering the overall weighted cost of capital by a greater amount. Tr. 3031:7-12 (Baudino).

46 Tr. 3032:11-12 (Baudino); Ex. 487 at MFR Schedule D-4a, p. 1, lns. 13-15, 19.

This adjustment is all the more warranted because FPL has conducted no study of capital structure.[47] FPL Witness Avera could not even state at the hearing whether FPL's management made "an informed decision based upon their analysis of the effect that different equity ratios could have on [FPL's] operations." Tr. 1786:24-1787:3 (Avera). FPL Witness Avera would not contend that lowering equity's share of FPL's capital structure at the margin would necessarily reduce FPL's credit rating.[48] Consequently, any increase in ROE above 9% should be accompanied by actions to address FPL's excess share of equity in its capitalization.

ISSUE-52: DROPPED

ISSUE-53: DROPPED

ISSUE-54: Should FPL's request for a 25-basis-point performance adder to the authorized return on equity and proposed annual review mechanism be approved?

POSITION: *No. FPL has failed to demonstrate that it deserves such an adder. The evidence that FPL purports to offer in support is the result of FPL's circumstances, not the efforts of its management. In addition, there have been recent examples of poor management. FPL has experienced massive cost overruns in construction of nuclear facilities. FPL's smart meter installation is over budget, failing to produce savings supposedly benefitting ratepayers. FPL continues to pursue a corporate financing strategy that burdens its ratepayers with excessive capital costs from equity, while failing to lock-in low, long-term debt rates. FPL also benefits from having a single contiguous service territory that FPL and credit rating agencies describe as being one of the best in the nation. The success that has been enjoyed by the company is largely the product of those circumstances, not its management.*

DISCUSSION:

No, FPL's request for a 25-basis-point performance adder to the authorized ROE should not be approved for several reasons. First, the requested 25-basis-point adder does not provide the correct incentive for FPL to provide superior service. Second, the benchmarks used by FPL

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47 *See* Ex. 547 (demonstrating that FPL had no relevant documents describing its policy for holding an equity cushion as described in FPL Witness Avera's testimony).

48 Ex. 112 at 132:24-133:15 (Avera Deposition Tr.). In fact, FPL could provide no documentary support for FPL Witness Avera's statement that FPL's debt rating would be lower if its capital structure was changed. Ex. 548.

to measure whether it is entitled to the adder are flawed, the data used in the benchmarking analysis skews the results in FPL's favor, and the study fails to account for missteps made by FPL. Finally, to the extent FPL has enjoyed success, that success is not primarily the result of its management.

A. FPL's 25-Basis-Point ROE Adder Fails to Provide the Correct Incentive to Florida Electric Utilities

FPL claims that its proposed 25-basis-point ROE adder will "create an incentive for all utilities regulated by the FPSC to achieve superior customer value" (Tr. 1904:12-13 (Dewhurst)), or "excellent management." Tr. 1959:15-20 (Dewhurst). As summarized by FPL, "[i]f the Commission believes that, measured over the long haul, providing an incentive in the form of the 25-basis-point adjustment will encourage all utilities (not just FPL) to strive to improve the value they deliver to their customers, then the Commission should approve FPL's request." Tr. 4768:20-4769:1 (Dewhurst). However, FPL's claims are contrary to its own statements and fail to support the need for an ROE adder to incentivize Florida electric utilities.

Before this rate proceeding and without an ROE adder as an incentive, FPL consistently claimed that its corporate strategy was to provide superior service to its ratepayers in order to maintain a high return on equity for its shareholders. FPL Group Inc.'s Chairman and CEO, Lew Hay, proclaimed FPL's "[u]nyielding commitment to operational excellence and superior customer service" even after the first adverse 2010 rate case decision and before the filing of the 2010 settlement with the Commission. Ex. 631 at p. 18, 2nd bullet, 1st hyphen. FPL's CFO explained during his cross examination that FPL was committed to those values at the time Mr. Hay made his presentation and continues to strive for those values today. *See* Tr. 4795:13-4796:4 (Dewhurst). FPL's President further testified that FPL's commitment to continuous improvement in operational efficiency began "long before I joined the corporation" and was

ingrained in FPL's culture when he arrived. Tr. 446:2-11 (Silagy). FPL's witnesses refused to state that FPL's service quality would materially decline if the incentive ROE was not awarded. Tr. 1959:21-1960:1 (Dewhurst).

FPL contended at the hearing that it does not have a statutory duty to provide "superior service." *See* Tr. 474:4-25 (Silagy) (referring to FLA. STAT. § 366.03). Regardless, as demonstrated immediately above, FPL has represented to investors that it will provide what it characterizes as superior service whether an ROE adder is granted or not. The reason FPL has made and continues to maintain that commitment is because providing "superior service" to its customers results in benefits to its shareholders even without an ROE adder. In other words, there are already adequate incentives in place, today, without the ROE adder, for FPL to attempt to provide superior service.

None of the existing incentives were identified by FPL in its direct or rebuttal case, but FPL admitted upon cross examination of their existence. For example, management has an existing incentive to keep rates for service low so that demand for FPL's services increases and, in turn, revenues and earnings increase. *See* Tr. 1960:20-1961:17 (Dewhurst). Lower rates may induce industrial customers to maintain or increase their production within FPL's service territory. Tr. 1961:12-17 (Dewhurst). When FPL makes sales at a base rate that is fixed at a lower level of billing determinants than FPL is actually experiencing, then FPL's cash flow increases. Tr. 1961:7-11 (Dewhurst).[49] Depending on the skill of management, the increase in sales can result in increased returns of FPL's shareholders. In addition, to the extent superior service decreases the number and duration of outages experienced by the FPL's customers after adverse weather, the utility can maintain service for longer periods and achieve the

[49] FPL's sales forecasts are too low because they fail to account for increasing temperatures in Florida. Tr. 3130:18-3132:5 (Baron). The additional revenues associated with increased sales due to changing weather conditions would lead to a higher earned return, all else being equal. Tr. 3132:3-5 (Baron).

corresponding revenues associated with such service. By hardening its system, FPL increases its earnings and lowers its risk.[50] Incentives also exist for lowering costs associated with O&M and debt. By decreasing its O&M expenses after a rate proceeding, FPL can pocket the savings as an additional return (up to the top of the range of reasonable returns) until its next rate proceeding.[51] Similarly, if FPL achieves lower capital costs by refinancing its existing debt or increasing its leverage (thereby relying on lower cost debt than higher cost equity), FPL can achieve a higher ROE (up to the top of the range of reasonable returns) until its rates are reviewed by the Commission.[52] Because the foregoing actions can lower costs, produce stronger returns for investors, and ultimately better service for customers, FPL has an existing incentive (a higher earned ROE than allowed by the Commission up to the top of the range of reasonable returns) to take those actions.

Considering the above stated examples, it comes as no surprise that FPL's CFO testified that even without the ROE adder, FPL "will always strive for" superior service and operational excellence. Tr. 4793:22-25 (Dewhurst). However, he claimed that an ROE adder would create greater value for customers if it was introduced as an incentive.[53] That statement is undermined by FPL's own witness' testimony. When responding to Commissioner Balbis, FPL Witness Deason testified that he does not believe FPL can achieve incremental efficiencies that would allow FPL to achieve the full benefit of any adder to the top end of the range of reasonable

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50 *See* Tr. 1879:20-1880:2, 1880 n.1 (Dewhurst) (explaining that FPL experiences a loss of revenues while its system is being restored after an outage because rates are based on volume expectations "that are not reduced for the average expected impact of tropical storms"); Tr. 2959:19-2960:11 (Chriss).

51 *See* Tr. 1961:2-6 (Dewhurst) (explaining that reducing costs while maintaining revenues may increase FPL's margins). OPC Witness Schultz testified that FPL has failed to fill budgeted employee slots (*see* Tr. 2637:6-2648:6) (Schultz)), resulting in labor expenses being collected from ratepayers but not actually being used by FPL to provide service.

52 Tr. 2998:9-17 (Baudino) (quoting a March 23, 2010 Value Line report regarding the effect that lower debt costs have on utilities); Tr. 1823:17-1824:18 (Avera) (explaining how debt is a fixed charge, and when debt yields decrease rates are lowered, that provides greater financial flexibility to a company).

53 *See* Tr. 4794:1-2 (Dewhurst) ("It's my testimony that there is value in introducing the adder.").

returns. *See* Tr. 4060:18-4061:10 (Deason). In other words, the cost of the ROE adder may not be fully made up for by the cost savings that the adder incentivized. Under such circumstances, it is clear that customers would not incur greater value from an incentive ROE adder than the value they already obtain from existing incentives. The likely outcome is that customers may experience only the associated cost.

The approximately $40 million annual cost of the ROE adder proposed in this proceeding will also be lost to ratepayers once it is earned by FPL. It fails to provide a direct incentive to FPL employees through compensation or ensure actual savings by being dependent on FPL lowering its costs. As FPL's CFO explained, the money earned through the adder could be passed onto FPL's parent and could be used to offset losses at or "headwinds" experienced by FPL's affiliate. Tr. 1980:4-1982:6 (Dewhurst). The ROE adder is simply the wrong tool for incentivizing utility performance.

B. FPL's Benchmarking Study is Flawed, Uses Data that Skews the Results in FPL's Favor, and Fails to Account for FPL's Current Management Missteps

If the Commission finds that an ROE adder does properly incentivize utilities and decides to consider an adder in this proceeding, rather than a rulemaking proceeding as argued in Issue No. 5, then the Commission should reject the adder because FPL has failed to meet its burden of proof that it has provided "superior service."

FPL Witness Reed purports to offer a benchmarking study that "shows that [FPL] has outperformed similarly sized companies across an array of financial and operational metrics." Tr. 188:3-5 (Reed). Based upon his flawed study, FPL Witness Reed concludes that "FPL has demonstrably superior performance"[54] which in turn is used to support FPL's claim for a 25-

[54] Tr. 216:4 (Reed). Any reference to FPL Witness Avera's testimony for support for the proposition that FPL is *entitled* to a 25-basis-point adder should be disregarded because FPL Witness Avera testified that such an interpretation of his testimony would be erroneous. Tr. 1784:20-1785:13 (Avera).

basis-point adder. *See, e.g.*, Tr. 1905:21-22 (Dewhurst). As shown in detail below, FPL Witness Reed's benchmarking study is flawed and provides skewed results.

FPL failed to make an apples to apples comparison between itself and similarly sized companies. FPL's President and FPL Witness Reed both claimed in their direct testimony that FPL's benchmarking study demonstrated that FPL outperformed "similarly sized companies." Tr. 399:11-12 (Silagy); Tr. 188:3-5 (Reed). FPL's President explained that "being able to compare companies to like companies is an important methodology in benchmarking" because similarly sized companies will generally present their management with a similar opportunity to capture economies of scale and synergies across an enterprise. Tr. 448:5-449:3 (Silagy). As FPL Witness Reed explained in testimony he provided in *another* proceeding (but not here), economies of scale allow large generating companies to attain portfolio synergies, operational synergies, and strategic synergies, which in turn "*allows larger generation providers to produce/sell power at a lower cost/price relative to smaller generation providers.*" Ex. 479 at 10:30-11:2 (emphasis added). FPL Witness Reed defined portfolio synergies as "additional opportunities and value . . . from a having a large, operationally (type of plant and fuel usage) and geographically diverse generating portfolio." Ex. 479 at 11:5-8. He defined operational synergies as the additional value a larger generation company extracts due to the size of its generation portfolio (*e.g.*, "*more leverage in terms of negotiating fuel supply contracts* [and] *manag[ing] . . . inventory more effectively across a larger number of generating units*, thus reducing supply costs.") Ex. 479 at 11:27-12:1 (emphasis added). Considering the extent that large generating companies can attain synergies, as identified by FPL Witness Reed, and achieve economies of scale, it is not surprising that FPL's President agreed that "it's *critical* to compare apples to apples on companies," Tr. 448:10-12 (Silagy) (emphasis added), by comparing

similarly sized companies. What is surprising is that FPL Witness Reed did not acknowledge the existence of the foregoing synergies in his prepared testimony in this case, much less take steps to remove the impact of them from his study.

FPL's President further testified that companies in FPL's benchmarking study that are a ninth, eighth, or seventh the size of FPL[55] are not comparable to FPL. Tr. 449:13-450:8 (Silagy). Exhibit 478 shows that FPL significantly exceeded the size and scope of most companies included in FPL Witness Reed's benchmarking study.[56] For example, of the 27 electric utilities included in "Straight Electric Group" only one (Southern California Edison Co.) had a comparable number of customers to FPL. Ex. 478 at Attachment No. 1, p. 1. The next largest utility included in the benchmarking analysis had nearly half as many customers as FPL. *Id.* For the "Florida Group," not a single utility had a comparable number of customers and the next largest utility (Florida Power Corp.) had approximately one third of customers that FPL had in 2010. *Id.* Even the "Large Utility Group," which is composed of utility holding companies rather than individual utilities like FPL, only had one company with a similar number of customers to FPL (Southern Company). The next largest utility holding company had only two thirds of the customers of FPL. *Id.* Similarly, on a MWh sales volume basis, all of the utilities included in the "Florida Group" had less than *half* of the sales of FPL. Ex. 478 at Attachment No. 1, p. 2. In addition, 20 of the 28 companies included in the "Straight Electric Group" had less than *half* of the electric sales of FPL in 2010, and 23 of the 28 companies included in the "Straight Electric Group" had less than two-thirds of the electric sales of FPL in 2010. *Id.*

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55 Tr. 449:5-450:8; Exhibit 478 at Attachment No. 1, p.1 (including companies such as Dayton Power & Light, Kentucky Utilities Co., Nevada Power Co., Oklahoma Gas and Electric Co., Portland General Electric Company, Public Service Company of New Mexico, and Tampa Electric Company in the benchmarking analysis).

56 FPL Witness Reed provided a summary of the size mismatch when cross examined. *See* Tr. 283:14-286:7 (Reed).

Finally, despite acknowledging that having similarly sized companies was an important part of benchmarking, FPL Witness Reed failed to provide any data concerning the generating capacity of the utilities included in his study. Tr. 285:11-286:7 (Reed). He also did not include the size of the company (which FPL's President described as "critical") in his "Situational Assessment" nor did he try to remove the effect of such synergies from the data that he used.[57] His analyses often were calculated based upon a $/MWh or a $/customer basis,[58] which mask or fail to take into account the synergies that in other cases he has attributed to companies with large fleets of generating capacity.[59]

In addition to including smaller, non-comparable companies in the benchmarking study, FPL also included metrics and calculated the rankings in a way that skewed the results in its favor. For instance, when assessing Non-Fuel Production O&M, FPL included a metric for "Non-Fuel Nuclear Production O&M per MWh Produced"[60] even though 14 of the companies included in the study owned *zero* nuclear generation.[61] As a result, FPL achieved the highest ranking for the "Florida Group" in 2010 because it was the only contestant in that category.[62] FPL also achieved ostensibly above average rankings (between 1 and 14) in the "Non-Fuel Nuclear Production O&M per MWh produced" category for all years for the "Straight Electric Group" even though its performance was actually *below* average when the rankings are focused only upon those utilities actually owning nuclear generation (depending upon the year, between 8

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57 Tr. 288:22-289:21 (Reed); Ex. 128 at 2 (listing factors used in Situational Assessment).

58 Ex. 128 at 2 (Ex. JJR-6) (describing the metrics used in FPL Witness Reed's Productive Efficiency rankings).

59 Calculating a cost based on $/MWh treats each megawatt hour as equal, when, according to FPL Witness Reed's own testimony, they are *not* because of the synergies that large generators enjoy. *See* Ex. 479 at 10-12.

60 Ex. 128 at p. 2, row "Non-Fuel Production O&M," sub row "Non-Fuel Nuclear Production O&M MWh," col. "Metric" (Ex. JJR-6).

61 Tr. 272:8-18 (Reed); Ex. 473 at 5 (providing blanks where information was not available).

62 Tr. 272:19-273:19 (Reed); Ex. 473 at pp. 5-6, "Florida Group," col. 2010.

and 16 utilities).[63] Since the rankings for each metric were simply averaged (Tr. 270:4-14 (Reed)), the construction of FPL's study allowed it to represent that FPL was ostensibly performing well for the "Non-Fuel Nuclear Production O&M" metric, even though it was actually a below average performer. In addition to the "Non-Fuel Nuclear Production O&M" data, missing data also skewed the rankings provided for the "Transmission O&M per Mile of Transmission Line" metric for the Large Utility Group. Ex. 473 at pp. 13-14. Once again FPL assigned itself the best possible ranking because no other company was qualified in that category in 2001 through 2003.[64] FPL was actually a below average performer for the remaining years (achieving a ranking of 4 out of 6 for most other years), but by averaging the resulting rankings when providing its metric group assessment for "Transmission O&M," FPL skewed the results so that it seemed as if FPL was a top performer. Missing data, which in FPL's methodology skew the results for those companies that have data, occurred to a smaller degree throughout the study. Tr. 276:19-24 (Reed); *see* Ex. 473 at 1-48. Notably, out of 24 metrics with 10 yearly data points for each metric (240 total data entries), data for FPL was missing for only a single entry (2009 - "Additions to Plant per Incremental Customer"). Ex. 473 at 47-48. Therefore, except for the single foregoing instance, FPL benefitted from the absence of data concerning *other* utilities (and the resulting higher ranking for itself as compared to a full data set) in any of the other metrics and yearly comparisons.

The metrics included in the benchmarking study also skew the results in FPL's favor. As FPL Witness Reed demonstrated in his "Situational Assessment," FPL had between the lowest and third lowest number of MWhs sold per customer for all comparison groups for the entire

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63 Tr. 273:20-274:17 (Reed); Ex. 473 at p. 6, "Straight Electric Group," row "Florida Power & Light Company."

64 Ex. 473 at p. 14, "Large Utility Group," row "Florida Power & Light Company," cols. "2001" through "2003"; Tr. 275:18-276:24 (Reed).

period studied. Ex. 476 at 5-6. In the "Straight Electric Group," 19 of the 28 utilities sold approximately 30 MWh per customer in 2010, but FPL only sold approximately 24 MWh per customer. Ex. 476 at p. 5, "Straight Electric Group," year 2010. This disparity is caused by the larger number of customers that FPL has, as compared to the other electric utilities and electric utility holding companies included in FPL Witness Reed's study. *See* Ex. 478 at Attachment No. 1, p. 1. FPL Witness Reed testified, without any supporting data or facts, that additional customers can create additional costs for a utility.[65] However, that relationship is not found in all of the benchmarks that were included in FPL's study. When prodded to provide specific areas where costs could increase due to the number of customers, FPL Witness Reed testified that metering and distribution infrastructure costs, billing costs, collection costs, and accounting costs would also increase when there was an increase in the number of customers. Tr. 279:9-280:9 (Reed).

Conspicuously absent from FPL Witness Reed's assessment of the costs that vary according to the number of customers is "Non-Fuel Production O&M" and "Transmission O&M." Yet, FPL Witness Reed included "Non-Fuel Production O&M *per Customer*" and "Transmission O&M *per Customer*" as metrics in his benchmarking study.[66] Because FPL has a substantially higher number of customers than almost every other utility and utility holding company included in the study, *See* Ex. 478 at Attachment No. 1, p. 1., it is not surprising that FPL achieved a ranking of 1 in nearly every year for the "Florida Group" (out of 4) and "Large Utility Group" (out of 7) and a ranking well above average for all years and groups in the "Non-Fuel Production O&M per Customer" and "Transmission O&M per Customer" metrics. By

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65 *See* Tr. 278:1-13 (Reed); Ex. 474 at p. 1, last sentence; Ex. 475 at 1.

66 Ex. 128 at p. 2, "Productive Efficiency," col. "Metric," rows "Non-Fuel Production O&M per Customer" and "Transmission O&M per Customer" (Ex. JJR-6) (emphasis added).

measuring those metrics on a per customer basis, the larger number of FPL's customers is used to dilute costs such as Transmission O&M which do *not* fluctuate by number of customer.

FPL's benchmarking study was also based on older, stale data. Data for 2011 and 2012 are missing from the data set. In addition, FPL Witness Reed did not provide any analysis of future operations. Tr. 277:21-25 (Reed). As a result, FPL seeks an ROE adder based upon the study provided by FPL that has no relationship to FPL's current level of service. Notably, there have been a number of management missteps in recent years that should be taken into account. First, there have been massive cost overruns in construction of nuclear facilities.[67] Second, FPL's smart meter installation and vegetation management budgets were demonstrated not to produce accurate forecasts. *See* Issue Nos. 87 and 113, *infra.* FPL's smart meter program has failed to produce the net savings supposedly benefitting ratepayers. *See* Issue No. 113, *infra.* If left to its management's discretion, FPL would have pursued a costly coal-fired plant (the Glades Power Park Project) that this Commission found, after a thorough study, was *not* cost effective. Ex. 632; Tr. 4798:16-19, 4799:15-22 (Dewhurst).

FPL's benchmarking studies also take credit for factors beyond FPL's control. Lower costs, for instance non-fuel O&M costs, are affected by, *inter alia,* prevailing wages paid in the region (*e.g.*, by third party contractors to FPL). SFHHA Witness Baudino demonstrated that Florida's hourly wage rates are substantially below the national average by many different measures. Tr. 2997:12-18 (Baudino).

Finally, FPL continues to pursue a corporate financing strategy that burdens its ratepayers with excessive capital costs from equity, while failing to lock-in low, long-term debt rates. *See* Issue No. 51, *supra.* The cost of capital is single highest value group of issues presented by this

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[67] *See* Tr. 267:3-20 (Reed); *In re: Nuclear Cost Power Plant Recovery Clause*, Docket No. 120009-EI, Direct Testimony of William Jacobs on behalf of the OPC at pp. 10-14, 17, 19-21 (filed July 10, 2012).

rate case, and those issues are in turn dominated by the question of whether FPL's management is efficiently managing the enterprise's capital structure. Notwithstanding a series of measurements undertaken by FPL Witness Reed, *none* appeared to assess whether FPL was efficiently managing its capital structure. Tr. 297:19-299:15 (Reed). FPL is *not* managing its capital efficiently, because it maintains an investor supplied capital structure of about 60% equity while demanding a 11.25% ROE *and* a 25-basis-point adder for "good management." The reason why FPL does not have an incentive to manage its capital more efficiently is discussed in Issue No. 58 as well as the introduction to this Brief.

As demonstrated above, FPL's benchmarking study was flawed. FPL failed to meet its burden of proof to establish that it is providing "superior service." In addition, if the Commission believes that an ROE adder provides a proper incentive for utility performance, then it should establish its own analysis through a rulemaking proceeding to ensure that the bias that is pervasive through FPL's approach does not become the standard by which all utilities in Florida are measured. *See* Issue No. 5.

C. Much of the Success Enjoyed by FPL is the Product of Circumstances, not its Management

If the Commission disregards the skewed nature of FPL's benchmarking study, then it should consider how FPL's success has been influenced by its circumstances rather than its management.

As FPL Witness Reed stated, his benchmarking study was intended to measure whether FPL provided superior service through "excellence by management." *See* Tr. 232:1 (Reed). Upon cross examination, he explained that he was attempting to show only those "[s]uperior results that are produced through management action as opposed to circumstance." Tr. 266:2-8

(Reed). FPL's CFO agreed that a utility should not be awarded a ROE adder if the utility's positive performance was obtained through fortuitous circumstances. Tr. 1975:1-6 (Dewhurst).

FPL depends upon natural gas as a fuel source.[68] Compared to other recent periods, natural gas prices currently are at very low levels.[69] As a result, FPL's bills to its customers have declined. FPL claims that the savings it received from lower fuel costs were a product of its management, rather than circumstances. *See, e.g.*, Tr. 4770:2-20 (Dewhurst). However, FPL Witness Reed disagrees. He stated, "[w]e didn't look at fuel because, again, I didn't consider fuel to be within the discretion of management . . . ." Tr. 289:2-5 (Reed). FPL Witness Reed further noted that the "vast majority" of new fossil generation projects have been natural gas fired since 2001. Tr. 292:13-25 (Reed). In fact, even when FPL attempted to go against the industry grain, the Commission did not provide FPL with discretion to move away from natural gas fired generation. In 2007, FPL proposed to build a $5.5 billion coal facility, which would have been a very substantial bet on the advantages of that fuel. Tr. 4797:3-9 (Dewhurst). The Commission unanimously rejected the plan. Based upon "significant public input, expert testimony, and a thorough analysis of the record evidence, the [Commission] ruled that the proposed plants are not the most cost-effective alternative available." Ex. 632; Tr. 4798:16-19, 4799:15-22 (Dewhurst). Based upon that ruling, FPL stated in its own press release that its "*only option* for materially addressing near-term demand growth is to build more natural gas-fired plants . . . ."[70]

If FPL had been given a choice, it would *not* have chosen to build new natural gas fired generation facilities in lieu of the Glades Power Park Project, which it contended:

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68 *See, e.g.*, Tr. 3000:22-23 (Baudino) (in 2011, 62% of FPL's generation was from natural gas fired plants).

69 *See* Tr. 4125:23-4126:4 (DeRamus) (noting that gas prices are likely to rise).

70 Ex. 633 at p. 1, third full paragraph (emphasis added).

> increases our customers' exposure to what most experts believe will be higher natural gas prices and increased volatility in those prices. In fact, since we filed our testimony in February for this need determination, the price of a natural gas has gone up more than 13%. This suggests electricity prices will be higher in the future than if the coal plant were approved.[71]

FPL's management simply did not believe that the price of natural gas would fall as drastically as it has since 2007. The savings that its customers have enjoyed as a result of FPL's reliance on natural gas were not the product FPL's management foresight. FPL was simply fortuitous that natural gas prices declined. Rejection of the Glades coal-fired project avoided building the more capital intensive coal generation facility with less capacity and greater transmission costs than the natural gas facilities that replaced it.[72]

There are also a number of factors that are clearly beyond FPL's control, but that help FPL drive its growth. For instance, Florida's weather, the migration of retired baby boomers to Florida, the lack of a state income tax for individuals, and lower housing prices are cited by FPL, when not before this Commission, as factors favoring FPL's growth. Tr. 1969:22-1970:19 (Dewhurst).

Finally, to the extent the Commission believes that FPL's management was responsible for its low fuel costs and resulting low rates, FPL's CFO testified that the Commission should also consider the negative aspects of its management's decisions, including the added risks associated with certain sources of generation. Tr. 1984:8-23 (Dewhurst). Therefore, to the extent FPL's low rates are dependent on nuclear generation, the Commission should also consider the risks associated with nuclear generation that ratepayers must bear. *See* Tr. 1985:16-

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71 Ex. 633 at p. 1, third full paragraph.

72 *See* Tr. 4805:1-8 (Dewhurst); Tr. 4258:3-4259:8 (Silva) (stating that the replacement West County site was "many miles closer" to transmission that the Glades site); Tr. 4400:11-18 (Silva) (correcting his estimate and indicating that transmission costs about $1 million per mile).

1986:2 (Dewhurst). In addition, to the extent FPL's low rates result from FPL's dependence on natural gas, the Commission should also consider the volatility and risk associated with the reliance on natural gas. Tr. 1803:4-11 (Avera). If the Commission failed to account for those risks to which *ratepayers* are exposed, ratepayers would find themselves in a Catch-22. When fuel rates are high, ratepayers will have to pay higher rates for their service. But, when fuel rates are low, then management is credited with providing "superior service" and commendable foresight, and ratepayers will have to pay an additional 25-basis-point ROE adder resulting in approximately $40 million in additional annual revenue requirements. For bearing the risk associated with the natural gas and nuclear generation, ratepayers should be allowed to enjoy correlative benefits when they are available.

ISSUE-55: DROPPED

ISSUE-56: DROPPED

ISSUE-57: DROPPED

ISSUE-58: What is the appropriate authorized return on equity (ROE) to use in establishing FPL's revenue requirement?

POSITION: *9.00% based upon the DCF methodology applied to a group of comparison electric utility companies with similar bond ratings that derive at least 50% of their revenue from electric utility operations. SFHHA's CAPM results also fall well below 9.00%. FPL's recommended 11.5% ROE was based on a flawed analysis. The DCF utility proxy group utilized by FPL did not support the recommendation. Instead, FPL emphasized a non-utility proxy group that was not comparable to FPL. Because utilities have captive customers in franchised service territories, equity investors experience less risk by investing in utilities. In addition, FPL's recommendation was based upon various inappropriate adders, such as a flotation cost adjustment and a performance adder. FPL has not provided evidence that it incurred any flotation costs given that its shares are not publicly-traded, and the performance adder is inappropriate. *See* Issue No. 43.*

DISCUSSION:

FPL's revenue requirement should not be established using a 11.25% ROE, as proposed by FPL. FPL's ROE recommendation is flawed because it (1) relies on returns associated with

non-utility companies, (2) uses methodologies for estimating the ROE that rely on non-market data, (3) is derived by including various inappropriate adders such as flotation costs, and (4) is justified on a false premise (*i.e.* that FPL has higher risks than other electric utilities and requires a higher ROE to maintain its financial strength).

SFHHA Witness Baudino's ROE recommendation does not suffer from the above mentioned flaws and his results should be adopted by the Commission.

A. Non-Utility Companies that are not Comparable to FPL Should not Be Used as Proxies for FPL

Unlike investor required debt yields, the investor required ROE for FPL cannot be directly observed. Instead, the ROE must be estimated based upon models that rely upon data from the financial markets, such as dividend yields and analyst growth rates. The United States Supreme Court in two landmark decisions explained:

> 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 profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.[73]
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> ***
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> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks.[74]

As SFHHA Witness Baudino explained, "[t]hus, the task . . . is to estimate a return that is equal to the return being offered by other risk-comparable firms." Tr. 3009:7-9 (Baudino). If

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[73] *Bluefield Water Works & Improvement Co.*, 262 U.S. 679, 692-93 (1923) ("*Bluefield*").

[74] *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (citations omitted) ("*Hope*").

companies that are not risk comparable are used to calculate FPL's ROE, then the ROE will not be soundly based upon the standards set out by the Supreme Court. FPL Witness Avera noted this relationship at the very beginning of his testimony when he stated, "[t]he purpose of my testimony is to present to the [Commission] my assessment of the fair [ROE] for *the jurisdictional electric utility operations of [FPL].*" Tr. 1630:11-14 (Avera) (emphasis added). Unfortunately, his analysis failed to accomplish the purpose that he set out to achieve.

FPL Witness Avera's ROE studies incorporated both a "Utility Proxy Group" and a "Non-Utility Proxy Group" to estimate FPL's ROE. However, both groups inappropriately utilized non-electric utilities as proxies for FPL. Non-electric utility proxy companies are not comparable to FPL. Their use in Dr. Avera's study artificially increases FPL's recommended ROE. The Commission should not rely on such information when assessing the appropriate ROE for FPL in this proceeding. Instead, the Commission should rely on the DCF study presented by SFHHA Witness Baudino, which utilizes utility companies comparable to FPL.

Dr. Avera's "Non-Utility Proxy Group" should be rejected because electric utilities are not comparable to non-utilities. As SFHHA Witness Baudino testified:

> Utilities have protected markets, *e.g.* service territories, exclusive franchises granted by Florida municipalities, and may increase the prices they charge in the face of falling demand or loss of customers. This is contrary to competitive, unregulated companies who often lower their prices when demand for their product declines. Generally, the non-utility companies simply do not have these characteristics and must compete with other firms selling the same product for sales and for customers.

Tr. 3037:13-18 (Baudino). The companies included in Dr. Avera's "Non-Utility Proxy Group" are massive and involved in a wide range of business activities which have no comparable basis to FPL.

For example, FPL Witness Avera included Wal-Mart Stores in his "Non-Utility Proxy Group." Ex. 199, ln. 13 (Ex. WEA-7). As FRF Witness and Wal-Mart Stores employee Chriss testified, Wal-Mart Stores is the largest retailer in the world, with revenues last year of approximately $450 billion, which would make it the 29th largest country in the world. Tr. 2950:6-19 (Chriss). FPL acknowledges that Wal-Mart Stores 12 month trailing ROE was 25 percent, which is more than double every ROE adopted by a state Commission for electric utilities in the past three years. Tr. 2953:19-2954:1 (Chriss); *see* Ex. 571. FPL acknowledges that Wal-Mart Stores returned approximately $3.1 billion to its shareholders in the last quarter and FRF Witness Chriss agreed that Wal-Mart Stores did very well in the previous quarter. Tr. 2962:4-8 (Chriss). FRF Witness Chriss explained, "it's important to keep in mind that Wal-Mart operates in a competitive market, [] and that ROE is extraordinary [because] we don't have a fixed customer base." Tr. 2954:2-5 (Chriss).

The other companies included in the "Non-Utility Proxy Group" are all more comparable to the size and scope of Wal-Mart Stores than FPL. *See* Ex. 199. One notable difference between utility and non-utility companies is that utilities offer an average dividend yield that is nearly twice that of all non-utilities.[75] Higher dividend yields are a typical indicator of a less risky company. In addition, FPL's President confirmed that non-utility companies have different incentives than utility companies for managing their capital structure and its effect on earnings. He testified that non-utility companies can increase their debt component, while decreasing their equity component, in order to increase their earnings per share. Tr. 456:14-21 (Silagy). However, if a utility company replaces some of its existing equity with debt for the purposes of setting rates, earnings per share will not automatically increase. Tr. 459:6-10 (Silagy).

[75] Tr. 2999:21-23 (Baudino) (quoting the May 4, 2012 Value Line review of the Electric Utility (West) group).

Therefore, FPL's President agreed that "there's a distinction between rate regulated entities and unregulated entities." Tr. 459:12-17 (Silagy). As SFHHA Witness Baudino concluded and based on the distinctions and comparability issues between utility and non-utility companies identified *supra*, "Dr. Avera's use of non-utility companies to estimate a fair a rate of return for FPL is completely inappropriate." Tr. 3037:10-11 (Baudino).

FPL Witness Avera's use of non-comparable companies to boost his reported ROE for FPL was not limited to his "Non-Utility Proxy Group." His "Utility Proxy Group" also included companies that were not in the same businesses as FPL, such as ITC Holdings Corp. and Integrys Energy Group. Ex. 196 at 2 (Ex. WEA-4). Upon cross examination, FPL Witness Avera testified that ITC Holdings Corp. holds no generation facilities (Tr. 1802:24-1803:3 (Avera)), thus avoiding exposure to natural gas prices or nuclear generation risks that FPL Witness Avera identified as a component of FPL's risk. Tr. 1803:4-11 (Avera). Nor does ITC Holdings Corp. have a comparable number of future obligations associated with generation or distribution facilities, like FPL, which has the "vast majority" of its revenues attributable to generation. Tr. 1803:19-1805:2 (Avera). In fact, ITC Holdings Corp. is a "pure play transmission utility" that does not even own a single distribution facility. Tr. 1803:3, 1803:12-14 (Avera). In contrast, FPL derives less than 10% of its revenues from transmission. Tr. 1805:11-14 (Avera).

FPL Witness Avera further testified upon cross-examination that Integrys Energy Group receives only 28% of its revenues from regulated electric operations. Tr. 1832:1-6 (Avera). The remainder of its operations are composed of regulated gas and regulated steam businesses. Tr. 1832:4-6 (Avera).

Both ITC Holdings Corp. and Integrys Energy Group had extraordinary growth rates. FPL Witness Avera reported that ITC Holdings Corp. had growth rates of 14%, 18.8%, 16.5%,

and 13.8%. Ex. 196 at 2. Similarly, Integrys Energy Group had growth rates from Value Line and IBES of 9% and 9.4% respectively. These growth rates alone, without the addition of their corresponding dividend yields, meet or exceed the range of ROEs derived by the intervenors' witnesses. ITC Holdings Corp.'s growth rates even exceed FPL's proposed upper end of the range of reasonable returns. As SFHHA Witness Baudino shows, when the DCF results corresponding to those extreme growth rates for non-electric utilities are eliminated from FPL Witness Avera's DCF study, the range of returns decreases to between 9.4% and 9.8%. Tr. 3040:5-13 (Baudino). Use of the non-electric utility companies would clearly boost FPL's proposed ROE. FPL Witness Avera's analysis is faulty and should be rejected.

B. The Methodologies Utilized by Dr. Avera that Rely on Non-Market Data Should be Rejected

FPL developed its proposed ROE using four methods: the DCF model, the Capital Asset Pricing Model ("CAPM"), the risk premium method, and the expected earnings approach. Tr. 1640:1-5 (Avera). As demonstrated by SFHHA Witness Baudino, the DCF model, as checked by the results of his CAPM, provide the best estimates of FPL's ROE. Tr. 2991:21-2992:8 (Baudino).

1. CAPM

FPL Witness Avera's CAPM analysis was flawed. The market return portion of the CAPM was calculated "by estimating the current market return for dividend paying stocks in the S&P 500. This limited his 'market' return to only 373 companies." Tr. 3043:11-13 (Baudino). Even FPL Witness Avera recognizes that the theory of CAPM requires measuring a common stock's "volatility relative to the market as a whole," not a subset of the market. Tr. 1683:6-7 (Avera). Accordingly, SFHHA Witness Baudino's CAPM results reflected estimated market

returns for a much broader sample of the market. He used estimates from Value Line for samples of 2,455 and 1,570 stocks, respectively.

In addition, the use of a limited "market" for deriving the market returns creates a mismatch between the Betas derived for the proxy companies and the market return to which the Betas are applied. As FPL Witness Avera testified, the Betas he used from Value Line "are computed on a theoretically sound basis using a broadly based market index . . . ." Tr. 1684:15-17 (Avera) (quoting *New Regulatory Finance*). If the Betas used in FPL Witness Avera's CAPM are computed from a broad market, while the market return that the Betas are applied to are derived using a much smaller sample of the market (as FPL Witness Avera did), then the CAPM will provide meaningless results. The methodology used to calculate the Betas and the market return should be parallel to provide accurate results.

The size adjustment proposed by FPL Witness Avera to his CAPM results also is inappropriate. The adjustment was based on returns from a small sample of 81 companies that contained "many unregulated companies" and:

> an average beta of 1.03. This beta is greatly in excess of [Mr. Baudino's] utility comparison group beta of 0.68 and Dr. Avera's Utility Proxy Group beta of 0.70. There is no evidence to suggest that the size premium used by Dr. Avera applies to regulated utility companies, which on average are quite different from the group of companies included in the Morningstar research on size premiums.[76]

Finally, it is important to note that FPL Witness Avera's CAPM results are derived using an average beta from his "Utility Proxy Group."[77] For the reasons stated *supra*, companies included in FPL Witness Avera's "Utility Proxy Group" are inappropriate for deriving FPL's ROE.

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76 Tr. 3044:12-20 (Baudino).

77 Ex. 201 at pp. 1-2, ln. "Utility Proxy Group Beta" (Ex. WEA-9).

2. Risk Premium

The risk premium approach utilized by FPL Witness Avera used historical data regarding allowed returns for regulated utility companies and average public bond yields from 1974 through 2011. Tr. 3045:8-10 (Baudino). The methodology did not include current data concerning market returns. Tr. 3045:20-3046:2 (Baudino). The market data included in SFHHA Witness Baudino's DCF analysis is superior to the risk premium approach because it relies on much more timely market evidence of the ROE required by investors for FPL. *See* Tr. 3045:17-3046:6 (Baudino).

3. Expected Earnings Approach

The expected earrings approach should be rejected by the Commission. FPL Witness Avera simply reported the forecasted returns on book value over three year period from 2014 - 2016:

> He [Dr. Avera] did not use any market-based model such as the DCF or CAPM. Forecasted earned returns on book equity may have nothing whatsoever to do with investors' required returns in the market place. For example, if earned returns on book equity exceed the market-based DCF return on equity, then investors may expect a company to earn more on book equity than the market-based required rate of return.

Tr. 3046:19-3047:4 (Baudino). Methodologies that fail to account for current market data should be rejected by the Commission because they fail to account for current conditions using data available to investors.

C. Flotation Costs

FPL Witness Avera recommended a 15-basis-point adder to FPL's ROE for "flotation costs." Tr. 1700:3-5 (Avera). That adjustment to FPL's ROE should be rejected.

The DCF model utilized by SFHHA Witness Baudino already accounts for flotation costs through the use of current stock prices in the model. Tr. 3047:11-13 (Baudino). As SFHHA Witness Baudino explained:

> A DCF model using current stock prices should already account for investor expectations regarding the collection of flotation costs. Multiplying the dividend yield by a 4% flotation cost adjustment, for example, essentially assumes that the current stock price is wrong and that it must be adjusted downward to increase the dividend yield and the resulting cost of equity.[78]

In addition, FPL has failed to demonstrate that it will incur flotation costs in the test period. Notably, FPL does not even issue publicly-traded common stock. All of its equity is held by its parent corporation, NEEI. While NEEI may incur flotation costs for its equity issuances, those issuances are not directly related to FPL's financing. In fact, FPL's CFO testified upon cross examination that NEEI has not contributed equity to FPL on a net basis for over four years.[79] NEEI may receive a dividend or contribute equity in any given period, but those transactions are purely used to maintain FPL's equity ratio. Tr. 1946:24-1947:8 (Dewhurst). On a net basis, FPL has no need for equity infusions from its parent, even during this period of capital construction. FPL's CFO explained that FPL has been fully funded on an equity basis by retaining earnings since 2007. Tr. 1945:14-21 (Dewhurst). Moreover, the flotation cost presumption would assign such costs to all stock, even when such shares bore *none* of those costs, such as shareholders' automatic dividend reinvestment programs, which do not incur the costs of investment bankers and the like.

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78 Tr. 3047:13-17 (Baudino).

79 Tr. 1945:12-21 (Dewhurst) ("So effectively over the last four years [FPL has] just been able to support its own equity needs by retaining everything that it's generated.").

Without any evidence that FPL issues common equity to the market or even that FPL's parent NEEI issued equity on FPL's behalf, the Commission must reject FPL's proposed flotation cost adjustment.

D. FPL is a Low Risk Utility and Its Market-Based ROE Should Not be Adjusted

FPL is a low risk electric utility and should only be granted a market based ROE because: (1) it has one the best credit ratings in the industry and adopting SFHHA's recommended ROE and other cost of service adjustments would not affect its rating; (2) the risks that FPL claims are "unique" to it are experienced by other utilities and are properly assessed in FPL's corporate credit ratings; (3) FPL experiences a number of factors that lower its risks, as compared to other utilities, including its relatively unique equity-thick capital structure; and (4) FPL's claimed need for "financial strength" derived from a higher ROE than justified by the market does not result in the promised cost savings to ratepayers.

FPL's current issuer or corporate credit ratings are "A-" from S&P, "A2" from Moody's and "A" from Fitch Ratings Ltd. ("Fitch").[80] In addition, FPL's first mortgage bonds are rated "A" by S&P, "Aa3" by Moody's, and "AA-" by Fitch.[81] S&P also rates FPL's business risk as "excellent," which is the best, low risk rating that company can receive from S&P.[82]

FPL Witness Avera states, "[b]ecause the rating agencies' evaluation includes virtually all of the factors normally considered important in assessing a firm's relative credit standing, corporate credit ratings provide a broad, objective measure of overall investment risk that is

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80 Ex. 55 (120015 Hearing Exhibits - 01126, ln. "Issuer rating"; 120015 Hearing Exhibits - 01137, ln. "Long-Term IDR"; Tr. 1646:8-10 (Avera).

81 Tr. 3002:14-15 (Baudino); Ex. 302 at 15 (Ex. RAB-9); Ex. 55 (120015 Hearing Exhibits - 01126, ln. "First Mortgage Bonds").

82 Ex. 550 at p. 8 (Bates No. Staff 000807), ln. "Business Risk Profile."

readily available to investors."[83] On May 7, 2012, FPL Treasurer Paul Cutler stated that "[o]ur credit rating remains solid and supports our business opportunities at our principal subsidiaries."[84] He noted that S&P had assigned *NextEra, Inc.* an "A-" credit rating which meant that only 6% of the utility credit ratings he surveyed were higher than FPL's. Clearly, FPL's own analysis of its creditworthiness (outside of this rate proceeding and relying on objective sources) supports the proposition that its risk is low as compared to other utilities.

The low risk nature of FPL's operations is also confirmed when comparing FPL's risks to SFHHA Witness Baudino's proxy group. Once again, FPL Witness Avera explains that Value Line's safety rank is intended to "capture the total risk of a stock, and incorporates elements of stock price stability and financial strength." Tr. 1665:13-16 (Avera). He also observed that Value Line's Financial Strength Ratings are "designed as a guide to overall financial strength and creditworthiness, with key inputs including financial leverage, business volatility measures, and company size." Tr. 1665:21-23 (Avera). Because FPL is not a publicly traded company, FPL Witness Avera substituted NEEI's ratings for FPL. Tr. 1666:8-10 (Avera). However, NEEI includes FPL's higher-risk unregulated businesses.[85] Therefore, FPL's Safety and Financial Strength Ratings would necessarily reflect lower risks than those reported for NEEI. Nevertheless, as compared to the other electric utility holding companies included in SFHHA Witness Baudino's proxy group, NEEI received one of the best ratings provided. Only one other

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83 Tr. 1664:23-1665:3 (Avera); *see* Tr. 1793:4-11 (Avera) (while FPL Witness Avera may disagree with a credit rating agency's analysis, investors still rely on the information provided).

84 Ex. 302 at 15 (6% of utilities rated "A" or higher and 15% of utilities rated "A-") (Ex. RAB-9).

85 Ex. 55 (120015 Hearing Exhibits - 01168) (explaining that there is an inherent risk level at NEER as opposed to FPL).

company had a better Financial Strength Rating than NEEI,[86] and only four other companies had a better Safety Rating than NEEI.[87] These ratings provide another objective indicator that FPL is low risk.

FPL disregards its own witness' testimony regarding the comprehensive nature of these objective risk measures and attempts to claim that it faces "unique" risks in the industry. *See* Tr. 1888:20 (Dewhurst); Tr. 1632:18-21 (Avera). Its arguments are without merit.

FPL Witness Avera and FPL's CFO made clear that FPL readily discloses all of its material risks to investors through its SEC filings.[88] Those disclosures are provided in FPL's 10-K and also in other public disclosure documents.[89] In those disclosures, FPL has notified the public regarding its "unique" risks regarding regulation, capital expenditures, nuclear generation, severe storms, and liquidity needs.[90] The credit rating agencies and Value Line clearly knew about these risks when they assessed FPL's relative risk.[91] Yet, those institutions, which FPL's own witness describes as "objective," concluded that FPL is a comparatively low risk entity, as discussed immediately *supra.* As FPL's CFO admitted, "[e]very utility faces a unique risk profile . . . ."[92] Therefore, taking at face value FPL's statement that every utility has a unique

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86 *See* Ex. 625 at the last 12 pages (financial strength ratings are provided in the bottom right corner). Value Line reported an "A+" rating for Consolidated Edison and an "A" rating for NEEI. The ratings for the rest of the proxy companies were either "A" or below.

87 *Id.* (Safety ratings are provided in the top left corner). Value Line reported a rating of "1" for Consolidated Edison, MGE Energy Inc., Southern Co., and Wisconsin Energy and a "2" rating for NEEI. The ratings for the rest of the proxy companies were either "2" or below.

88 Tr. 1790:8-1791:6 (Avera); Ex. 113 (Dewhurst Deposition Tr. at 93:23-94:5).

89 *See* Ex. 487 at MFR Schedule F-1, Attachment No. 1, at pp. 25-34.

90 *Id.* at pp. 25 (regulation), 26 (capital expenditures), 27 (nuclear generation), 28-29 (severe storms), and 30 (liquidity needs).

91 Tr. 1769:5-11 (Avera) (FPL Witness Avera testified that the five characteristics of FPL's risk that he identified "are documented in bond rating reports, in Value Line, in other investment commentary that I quote in my testimony"); Tr. 1790:8-21 (Avera).

92 Tr. 4746:21 (Dewhurst) (emphasis added); *see* Tr. 1869:7-8 (Dewhurst) (explaining that each company's risk profile is the collection of its own "unique" risks).

risk profile, the question is not whether FPL's risks are unique, which is obvious, but how those risks compare to the unique risks of other electric utilities.

Most of FPL's claims that it is "unique" centers around its witnesses' allegations conclusions that it faces unusually severe weather.[93] However, as shown at the hearing, there a number of utilities in the United States that also face severe weather. For example, as admitted by FPL Witness Avera, in the northeast, ice storms can have a widespread effect on distribution systems and cause massive amounts of damage to a large area. Tr. 1806:14-1809:15 (Avera). FPL's focus on hurricanes, while ignoring the challenges that other utilities face around the country, is telling because it demonstrates FPL's subjective and radically incomplete analysis of its comparative risk. FPL did not study the comparative exposure of utilities to the damage caused by weather.[94]

In numerous data responses, FPL admitted that Witness Avera and FPL's CFO failed to conduct any review of FPL's relative risks as compared to the proxy group FPL proposed, other Florida electric utilities, or the electric utility industry in United States.[95] FPL was unable to provide any studies or analyses that provided support for its testimonial assertions that aspects of FPL's risk were greater than the unique aspects of any other utility in the country. FPL's claim that it is high risk utility is completely unsupported by the record evidence, and FPL has clearly failed to meet its burden of proof or even present a prima facie case in its direct case.

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93 *See* Tr. 1721:16-21 (Avera); Tr. 1913:13-18 (Dewhurst); Tr. 2017:21-2019:8 (Dewhurst).

94 Ex. 552 (response to Int. No. 359); Ex. 549 (response to Int. No. 12 and POD 20); Ex. 546; Ex. 48 at 120015 Hearing Exhibits - 00949-50, 00956, 00962 (Int. Nos. 388, 339, 346, 352).

95 Tr. 1792:10-14 (Avera) (FPL Witness Avera admitting that he has not studied FPL risks as compared to his proxy group); Ex. 549; Ex. 546; Tr. 1779:7-13 (Avera) (FPL Witness Avera admitting that that he "hasn't performed any analyses or studies comparing the risks FPL faces to those of other Florida utilities"); Tr. 1986:17-1988:8 (Dewhurst); Ex. 557.

Nevertheless, SFHHA produced evidence that demonstrates a number of risk factors specific to FPL that are clearly below average and mitigate the risks identified by FPL. FPL's reliance on natural gas lowers FPL risks associated with carbon-based environmental rules and legislation. Tr. 3000:22-3001:8 (Baudino). NextEra Energy Inc. previously stated that having "one of the lowest emissions profiles among the nation's top 50 power producers . . . provides attractive upside given the continuing direction of U.S. environmental policy." Ex. 302 at 12-13, 8-9, 11. In previous testimony, not before this Commission, FPL Witness Avera noted that utilities without FPL's emission profile that utilize coal-fired generation faced higher risks because of both existing and potential environmental regulations. Ex. 303 at p. 2 of the exhibit, lns. 5-10. These factors mitigate the risk associated with FPL's dependence on natural gas.

FPL also experiences lower risk due to its cost recovery clauses that have been approved by the Commission. As stated by FPL:

> Cost recovery clauses, which are designed to permit full recovery of certain costs and provide a return on certain assets allowed to be recovered through the various clauses, include substantially all fuel, purchased power and interchange expenses, conservation and certain environmental-related expenses, certain revenue taxes and franchise fees.[96]

Most importantly, FPL's reliance on these clauses has dramatically increased since 2009. On May 3, 2010, FPL Witness Barrett explained that "[i]nvestments that have clause or clause-like cost recovery are expected to be a significant source of earnings growth."[97] He noted that FPL expected investments with clause recovery to increase from $0.7 billion in 2009 to $3.5 billion in 2014 and that the potential earnings from such investments would increase from $39 million in 2009 to between $170 and $200 million in 2014. Ex. 302 at 25. By depending upon cost

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96 Tr. 3001:13-17 (Baudino) (quoting FPL's 2011 10-K at p. 11); *see* Ex. 302 at 23-25.

97 Ex. 302 at 25. *See* Tr. 3001:17-3002:2 (Baudino) (quoting FPL's 2011 10-K at p. 11).

recovery clauses to an increasing extent, FPL decreases its exposure to incurring expenses that it will not be able to recoup from ratepayers or which it will experience a significant delay in recovering. These clauses have substantially reduced FPL's risk in areas to which they relate, including fuel, environmental costs, and storm damage.

Without any record evidence (such as market returns for utility companies or demonstrably higher risk) to support its recommended ROE, FPL next attempts to demonstrate that ROEs below 11.25% are not commonly awarded by state utility commissions.[98] However, the evidence relied upon by FPL is based upon the ROEs granted to other electric utilities from earlier time periods. *See, e.g.*, Ex. 571; Tr. 3061:4-21 (Baudino). It has no relevance to the ROE that FPL should be granted in this proceeding under current market conditions. It is important to note how the financial markets and the cost of equity have changed since the reported allowed ROEs were issued.

As Chairman Brisé noted at the hearing, the reported allowed ROEs for electric utilities have been trending downward. Tr. 2032:4-2033:1 (Dewhurst). That trend is not surprising because the observable cost of capital (interest rates on bond yields) has also been trending downwards. SFHHA Witness Baudino demonstrated that interest rates for both long-term U.S. Treasuries and utility bonds have fallen since early 2000, with only a brief move upwards for utility bonds during the financial crisis in 2008. Tr. 2994:2-2996:2 (Baudino); Ex. 295. After the financial crisis, both long-term U.S. Treasuries and utility bonds continued their steady decline. Tr. 2995:16-2996:2 (Baudino); Ex. 295. *Notably, interest rates on utility bonds have fallen 200 basis points since FPL's last rate case.*[99]

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98 *See* Tr. 1902:8-9 (Dewhurst); Tr. 4754:5:4755:6 (Dewhurst); Ex. 451; Ex. 583.

99 Tr. 2996:15-22 (Baudino). FPL contends that since interest rates are near historic lows they must go up. *See* Ex. 118 (Baudino Deposition Tr. 61:5-62:6). Interest rates have been achieving new historic lows for years, but their trend downward has steadily continued. *See* Ex. 118 (Baudino Deposition Tr. 90:16-91:8).

Interest rates are not expected to rise in the near term. The Federal Reserve is continuing to provide monetary stimulus to the economy by holding interest rates low through an extension of its "Operation Twist"[100] and a promise to hold the federal funds rate at exceptionally low levels through 2014.[101] At the same time, volatility in the stock market has decreased substantially, as demonstrate by the VIX index (relied upon by FPL Witness Avera in FPL's last rate proceeding but unreported by him in this proceeding). Tr. 2997:1-8 (Baudino); Ex. 301. In addition, FPL has stated that the economic conditions in its service territory have been improving. Tr. 2997:10-12 (Baudino); Ex. 302 at 1-7. That slow but steady improvement is likely to continue due to Florida's comparatively low hourly wage rates and state corporate income tax rate. Tr. 2997:12-18 (Baudino); Ex. 306 at 1-4.

All of these factors suggest not only that "the ROE in this case should be lower than in FPL's last rate case" (Tr. 2997:19-2998:1 (Baudino)), but that FPL's current ROE should be lower than the ROEs awarded to other, higher-risk electric utilities during prior periods when capital costs were higher. Nevertheless, FPL claims it should be allowed an ROE of 11.25% because the credit rating agencies and investors will be "shocked" if FPL's allowed ROE were set below 11%.[102] FPL seems to believe that investors could only find this Commission is supportive, if the agency sets an allowed ROE above 11%.

Contrary to FPL's claims, the ratings agencies and investors are well aware of the declining trend in capital costs and allowed ROEs. In fact, FPL selectively referred to its

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100 Tr. 2996:4-12 (Baudino) (citing a June 20, 2012 statement from the Federal Reserve's Federal Open Market Committee).

101 Tr. 3007:15-17 (Baudino) (citing a statement from the Federal Reserve).

102 *See* Tr. 4421:14-4422:8 (Avera). FPL Witness Avera claims that the term shocked came from Value Line's assessment of FPL's ROE for the 2010 Rate Case Order. Tr. 1728:13-1729:9 (Avera). However, a review of Value Line's actual statements reveal that the order as a whole "came as a shock," not the ROE in particular. Ex. 48 at 120015 Hearing Exhibits - 00953.

previous credit rating agency reports, ignoring the credit rating agencies acknowledgment that a lower allowed ROE was not unusual or necessarily a negative signal to investors. In particular, when assessing FPL's credit risk, Moody's found FPL's awarded 10% ROE in 2010 not unusual: "[FPL's] recently awarded 10% ROE is consistent with those granted to some utilities in other parts of the country and its 59.1% equity ratio remains one of the highest in the U.S. . . ."[103] Since 2010, allowed ROEs have decreased. On March 23, 2012, Value Line, a source of information relied upon by FPL Witness Avera (*see* Tr. 1665:13-23 (Avera)), stated:

> Interest rates are at their lowest level in many years. . . . [W]hen interest rates are low, the allowed returns on equity that are awarded in rate cases trend downward. For instance, the two gas utilities in Illinois that are owned by Integrys Energy were granted an allowed ROE of just 9.45% for rate hikes that took effect at the start of 2012.[104]

The Value Line sheets for the companies included in SFHHA Witness Baudino's proxy group report that the majority of allowed ROEs applicable in today's market ranged between 9.2% and 10.88%.[105] As demonstrated above, credit rating agencies and investors are well aware of the declining cost of capital and its effect on electric utilities' allowed ROEs.

Yet, FPL still claims that because the Commission set its allowed ROE at 10% in the FPL 2010 Rate Order, its credit ratings were subsequently downgraded. *See, e.g.*, Tr. 4421:14-4422:8 (Avera). That conclusion is based upon a selective and misleading review of the credit rating agency analyses issued after the FPL 2010 Rate Order. The vast majority of FPL's credit ratings

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103 Tr. 3003:10-12 (Baudino) (quoting Moody's Investor Service, "Rating Action: Moody's Downgrades FPL Group to Baa1 and FP&L to A2," Global Credit Research at 1 (Apr. 9, 2010)).

104 Tr. 2998:8, 2998:19-23 (Baudino) (quoting a March 23, 2012 Value Line report on the Electric Utility (Central) group).

105 Ex. 625 at last 12 pages, bottom notes on each page (a 9.2% ROE was awarded to an electric utility owned by Consolidated Edison in 2010; a 10.88% ROE was awarded to a utility owned by Xcel Energy in 2009). Two outliers were excluded: (1) Value Line reported an allowed ROE of 15.05% for a utility owned by Xcel Energy in Texas, but that ROE was awarded in 1986, and (2) a 12.5% allowed ROE was reported as "blended" for the Southern Company, but it is not clear what year it was awarded or for what assets/functions.

remained unchanged following the issuance of the FPL 2010 Rate Order. FPL's first mortgage bond ratings were not downgraded. Even after the FPL 2010 Rate Order was issued, S&P and Moody's continued to rate FPL's first mortgage bonds "A" and "Aa3," respectively.[106] In addition, Fitch did not downgrade FPL's issuer rating.[107] In fact, the only downgrades that occurred were the result of analyses of the *consolidated* enterprise (NEEI) and not solely FPL. Based on "*higher risk throughout the consolidated organization resulting from higher leverage at the company's unregulated businesses*, higher earnings and cash volatility, *a growing energy trading and marketing business*, and a deterioration in the political, regulatory, and economic environment at its core Florida regulated utility,"[108] Moody's downgraded FPL's issuer rating to A2. Despite the downgrade, Moody's described FPL's regulatory environment as "average," instead of high risk. Tr. 3003:1-3 (Baudino). Value Line agrees that FPL has average regulatory risk in its May 25, 2012 report.[109] Similarly, S&P's corporate credit rating of FPL was based upon the consolidated credit profile of NEEI and NEER.[110] In fact, S&P specifically states that FPL "is expected to contribute *less than half* of the consolidated credit profile . . . ."[111] S&P explains that "there is an *inherent risk level at [NEER]* that cannot be avoided. Such risk *permanently hinders* credit quality, especially in light of the influence that marketing and high-risk proprietary trading results have on [NEER's] earnings and cash flow."[112] Based on a

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106 Tr. 3002:14-16 (Baudino); Ex. 550 (Bates No. Staff 000807, ln. "Senior Secured"); Ex. 55 at 120015 Hearing Exhibits - 01126, ln. "First Mortgage Bonds").

107 *See* Ex. 55 at 120015 Hearing Exhibits - 01191 ("Fitch affirmed the 'A' IDR of [FPL].").

108 Tr. 3002:20-3003:1 (Baudino) (quoting Moody's Investors Services, "Rating Action: Moody's downgrades FPL Group to Baa1 and FP&L to A2," Global Credit Facilities at 1 (Apr. 9, 2010) (emphasis added)).

109 Ex. 625 at 7th page from the end (Value Line sheet for "NextEra Energy," Note "(E)" at bottom of page).

110 *See, e.g.*, Ex. 55 at 120015 Hearing Exhibits - 01209 ("The ratings of [FPL] are based on the consolidated credit profile of [the parent company]"); *see* Ex. 113 (Dewhurst Deposition Tr. 28:18-29:20).

111 Ex. 55 at 120015 Hearing Exhibits - 01168, 1st paragraph (emphasis added).

112 Ex. 55 at 120015 Hearing Exhibits - 01168, 3rd paragraph (emphasis added).

number of rising risk factors that included risks solely related to FPL's unregulated subsidiary, S&P downgraded FPL's corporate credit rating to "A-" to "A." Ex. 55 at 120015 Hearing Exhibits - 01167.

The above discussion demonstrates that setting FPL's ROE below 11.25% will not have the exaggerated consequences claimed by FPL.[113] The evidence (rather than unsupported hyperbole found in FPL's testimony) shows that investors are well aware of the declining trend in allowed ROEs and that an ROE below 11.25% will not shock investors.

Remarkably, FPL was unable to produce a single example where an actual investor stated that the allowed ROE of 10% awarded in the 2010 Rate Case Order was shocking. *See* Ex. 48 at 120015 Hearing Exhibits - 00951-52. In contrast, the record shows that in disclosure statements describing the single largest set of holdings of NEEI common stock not only reflected increased holdings of NEEI's stock but also an increase in the value of those holdings from the beginning to the end of the quarter in which the first FPL 2010 Rate Order was issued.[114] In addition, NEEI's stock price actually increased on the day that the Commission issued its rate order in 2010. Tr. 4682:11-17 (Avera); Ex. 496. Clearly, there was not a consensus among investors that the first 2010 Rate Case Order or the 10% ROE was the cataclysmic event claimed by FPL witnesses.

FPL Witness Avera and FPL's CFO claim that all of the "opposing witnesses" ROE and capital structure recommendations will lead to a further downgrade of FPL's credit ratings. *See, e.g.*, Tr. 4416:16-19 (Avera); Tr. 4725:16-21 (Dewhurst). Their claims are incorrect. The only

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[113] FPL's CFO only admitted that there were other factors affecting FPL's downgrade, besides its ROE, upon questioning at his deposition. *See* Ex. 113 (Dewhurst Deposition Tr. 34:24-35:23). However, he failed to acknowledge the effect that NEER had on FPL's credit rating.

[114] Tr. 4534:19-22, 4537:22-4538:1 (Avera); Ex. 619; Tr. 4544:8-4546:15 (Avera); Ex. 620; Ex. 621 (demonstrating that Wellington Management Company increased both its shares owned and the value of shares owned of FPL Group Inc. from Dec. 31, 2009 to Mar. 31, 2010).

evidence driven by actual data relied upon by either FPL witness is an analysis provided by FPL's CFO concerning OPC's recommendations. Tr. 4736:14-4740:22 (Dewhurst); Exs. 452-455. Conspicuously absent from FPL's analysis is any mention of SFHHA proposals.

SFHHA Witness Baudino recreated FPL's CFO's analysis and methodology for the recommendations made by SFHHA. That analysis demonstrates that, if the Commission makes all of the adjustments recommended by SFHHA, including setting FPL's ROE below 11.25%, FPL's corporate credit will not be downgraded. Ex. 118 (Baudino Late Filed Exhibit No. 2). As explained by both SFHHA Witness Baudino and FPL's CFO, S&P uses a set of financial ratios in developing and assigning bond ratings using a business risk and financial risk matrix. Those ratios include Funds from Operations / Total Debt; Total Debt / EBITDA: and Total Debt / Total Capital. *See* Ex. 452 at p. 1, lns. 37-39; Tr. 3027:7-12 (Baudino). Those ratios are used to assign a company a financial risk level between minimal and highly leveraged. Tr. 3027:14-15, 3027:19-21 (Baudino). Depending upon the company's business risk level, which can range from excellent to vulnerable, the company is then assigned a corresponding bond rating. Tr. 3027:15-19 (Baudino).

S&P has assigned FPL the best, least risky business risk assessment: excellent.[115] When that business risk profile is coupled with an "intermediate" financial risk, S&P's matrix would assign an "A" corporate credit rating. *See* Ex. 454, ln. "Intermediate," col. "Excellent." In order to obtain an "intermediate" financial risk rating from S&P, FPL must maintain a ratio of Debt / Total Capital between 35% and 45%.[116] Since SFHHA is not recommending any adjustment to FPL's investor supplied capital, FPL would maintain its as-filed Debt / Total Capital ratio of

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115 Tr. 3028:2-3 (Baudino); Ex. 550 (Bates No. Staff 000807, ln. "Business Risk Profile").

116 Ex. 454 at p. 1, col. "Debt/Capital," ln. "Intermediate"; Tr. 3028:4-5 (Baudino).

43.6%, as calculated by FPL's CFO[117] That ratio would therefore place FPL in the "A" range. In addition, FPL must maintain a Debt / EBITDA level between 2.0X and 3.0X to maintain an intermediate financial risk rating. Ex. 454 at p. 1, col. "Debt/EBITDA," ln. "Intermediate." Including all of SFHHA's recommended adjustments to FPL's as-filed rates, FPL's Debt / EBITDA would be 2.93X. Ex. 118 (Baudino Late Filed Exhibit No. 2 at p. 1, ln. 19). Again, that ratio results in FPL being placed in the "A" corporate credit rating range. Finally, when an "Excellent" business risk profile is coupled with a "significant" financial risk, S&P's matrix would assign an "A-" rating. *See* Ex. 454, ln. "Significant," col. "Excellent." In order to obtain a "significant" financial risk rating from S&P, FPL must maintain a ratio of Funds from Operations / Total Debt between 20% and 30%. Ex. 454 at p. 1, col. "FFO/Debt," ln. "Significant." Including all of SFHHA's recommended adjustments to FPL's as-filed rates, FPL's Funds from Operations / Total Debt would compute to 26.9%. Ex. 118 (Baudino Late Filed Exhibit No. 2 at p. 1, ln. 19). That result is well within the range for a "significant" financial risk rating and an overall "A-" corporate credit rating from S&P.

In sum, using SFHHA's recommended revenue requirement for FPL, including SFHHA's adjusted ROE, results in two of the three financial ratios being in the "A" rating range and one of three ratios being in the "A-" rating range. Considering that S&P has discretion regarding the bond rating to give to a company based upon the results of its matrix (Tr. 3028:8-10 (Baudino)), it is more likely than not that S&P would at least maintain FPL's "A-" rating and potentially consider upgrading FPL to an "A" rating.

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[117] Ex. 118 (Baudino Late Filed Exhibit No. 2 at p. 1, ln. 18); Ex. 452 at p. 1, ln. 39, col. (B).

FPL's final claim that an 11.25% ROE is necessary rests on FPL Witness Avera and FPL's CFO assertions that FPL requires a high ROE to maintain "financial strength."[118] This claim is faulty for a number of reasons. First, providing FPL with a higher ROE in order to maintain its "financial strength," uses the wrong tool for the job. As FPL's CFO testified, a higher ROE can be used by FPL to pursue a number of corporate purposes that would not increase its financial strength at all. Tr. 1980:4-1982:6 (Dewhurst). FPL has no obligation to retain its extra earnings to ensure it can meet its obligations in difficult circumstances. Instead, the extra funds can be distributed to FPL's parent and returned to investors. Tr. 1980:15-17, 1981:8-1982:6 (Dewhurst). If FPL is truly concerned that it needs further financial strength to meet its obligations after a hurricane, then it should work with the Commission to change its current storm recovery mechanisms. Adjusting the ROE to provide an extra cushion in difficult times, is an expensive (just 25 basis points costs ratepayers $40 million per year that will never be available again to account for any future adverse events) and blunt instrument that fails to serve the purpose that FPL is proposing.

Second, FPL's claim that the Commission's FPL 2010 Rate Order limited its access to the capital markets at reasonable rates[119] is false. Despite the opportunity, FPL Witness Avera could not identify a single opportunity, even during 2010, when FPL was unable to access to capital on reasonable terms, Ex. 554; Ex. 113 (Dewhurst Deposition Tr. 59:14-60:9), for good reason. After (a) the FPL 2010 Rate Order was decided, (b) FPL announced the adverse rate order to investors, and (c) the credit rating agencies stated they were reviewing FPL's ratings,

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118 *See* Tr. 1633:16-18, 1635:2-6, 1636:7-1637:14, 1638:6-15 (Avera) (speculating without documentary evidence that the 10% ROE derived in FPL's last rate case solely unsettled investors so that FPL's "financial strength" was impacted); Tr. 1863:19-1864:3 (Dewhurst).

119 Ex. 113 (Dewhurst Deposition Tr. 45:12-46:8) (claiming that immediately after the FPL 2010 Rate Order, FPL was unable to access capital markets on a timely, unfettered and competitive basis); Ex. 112 (Avera Deposition Tr. 141:22-142:1).

debt investors still lent FPL $500 million with a yield of 5.669%.[120] In fact, FPL's long term debt costs continued to decline.[121] The FPL Group told investors in May 2010 that it had "confidence that we can access world-wide capital again in 2010 and beyond . . . ." Ex. 634 at p. 14 in original presentation. While FPL repeatedly alleges that investors' perceptions were negatively impacted by the first 2010 rate case order, which it infers from reliance on secondary sources, *see, e.g.*, Tr. 1891:7-1892:23, 1893:16-21 (Dewhurst), FPL ignored publically available information from "real world" investors it contended should be the focus of Commission concern. Tr. 4534:3-13 (Avera). As demonstrated above, FPL continued to be attractive to investors. Filings from Wellington Management Co., reporting the largest concentration of common stock of FPL's parent, indicate increased holdings of NEEI/FPL Group shares after the first 2010 Rate Case Order. *Compare* Ex. 620 *with* Ex. 621; Tr. 4544:8-4546:15 (Avera). After the order setting FPL's ROE at 10% but months before filing the 2010 rate case settlement, FPL's Chairman extolled FPL as one of "two great businesses." Ex. 556 at p. 3 (p. 4 in original in presentation).

Finally, FPL's financial strength is already more than adequate. FPL maintains one of the highest equity ratios of any electric utility in the United States. *See, e.g.*, Ex. 571; Tr. 3071:18-3072:4 (Baudino). Despite its excessive nature, SFHHA has not proposed to change that capitalization, if its ROE recommendation is adopted. As a result, FPL has extra equity and the resulting retained earnings and cash to withstand adverse events. With an "excellent" business risk profile and one of the strongest balance sheets in the electric utility industry, FPL has ready access to the debt markets.

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120 Tr. 4548:11-4549:4 (Avera); Tr. 4669:6-4671:15 (Avera); Ex. 622. That rate was below the average yield for a 30-year A rated utility bond in February 2010. Ex. 113 (Dewhurst Deposition Tr. 67:14-68:24 (FPL Witness Dewhurst claims that the Value Line information was unreliable, but FPL Witness Avera disagreed, as shown *supra*)).

121 *See* Tr. 3006:19-3007:5 (Baudino) (noting later debt issuances were made at lower rates).

In conclusion, by all objective measures FPL is a low risk electric utility. Even if one were to consider FPL's "unique" risks, those are mitigated by a number of low risk aspects of FPL's business. In addition, FPL has failed to show that an ROE below 11.25% would be considered unreasonable by the investment community. Finally, FPL's ROE should not be set above market to provide it with "financial strength." Such an expense is not needed and is extremely costly for very little benefit to ratepayers. If FPL is truly concerned with its ability to withstand adverse events such as hurricanes, then it should seek to use the proper tools available to address its concerns.

ISSUE-59: What is the appropriate capital structure that should be used by FPL for ratemaking purposes in this case?

POSITION: *So long as the Commission sets FPL's ROE at 9.00%, FPL's as-filed for capital structure, as adjusted for SFHHA's rate base adjustments, is appropriate for ratemaking purposes in this case. *See* Tr. 3029:17-3030:8 (Baudino); Ex. 346 at p. 1, Section II (Ex. LK-27). Nevertheless, FPL has employed an excessive equity ratio to boost returns of its owners at the expense of ratepayers. FPL claims that its equity rich capital structure lowers capital costs passed onto ratepayers by lowering its risk. However, the thick equity component has not been demonstrated to produce the lowest reasonable rates. FPL's investor-supplied equity ratio should be decreased by 2% (i.e. equity decreased by $327.446 million) for every 0.50% increase in ROE above 9%. See Issue Nos. 51 and 61. That adjustment is necessary to hold FPL accountable for its claim that its equity rich capital structure lowers FPL's risk and capital costs.*

DISCUSSION:

The appropriate capital structure that should be used by FPL for ratemaking purposes in this case is presented in Ex. 346 at p. 1, Section II. That capital structure reflects SFHHA's adjustment to FPL's as-filed ADIT capitalization, as explained in Issue No. 46. However, if the Commission increases FPL's ROE above that recommended by SFHHA, then FPL's equity and long term debt ratios should be adjusted. As explained in detail in Issue No. 51, for every 50 basis points increase in ROE, the Commission should lower FPL's investor supplied equity ratio by 2%.

ISSUE-60: Is the combination of regulatory ROE, debt costs, capital structure and performance adder (if any) appropriate?

POSITION: **See* Responses to Issue Nos. 58, 59 and 61.*

ISSUE-61: What is the appropriate weighted average cost of capital?

POSITION: *So long as FPL's ROE is set at 9.00%, FPL's weighted average cost of capital should be 5.85%. *See* Tr. 3029:17-3030:8 (Baudino); Ex. 346 at p. 2, Section III (Ex. LK-27). However, for every 0.50% increase in FPL's ROE above 9.00%, FPL's equity should be adjusted downward 2%, and FPL's debt should be increased by a corresponding amount. *See* Tr. 3031:5, Table 4 (Baudino).*

DISCUSSION:

FPL's weighted cost of capital should be 5.85%, as demonstrated in Exhibit 346 at p. 2, Section III (Ex. LK-27). However, if the Commission adopts a higher ROE than recommended by SFHHA Witness Baudino, a corresponding adjustment to FPL's capitalization should be made, as described in Issue No. 51.

NET OPERATING INCOME

ISSUE-62: Has FPL maximized the sources of net jurisdictional revenue that are projected to be reasonably available and technically viable for the 2013 test year? If not, what action, if any, should the Commission take in setting FPL's rates in this case? (For purposes of this issue, "net jurisdictional revenue" may include net revenue related to the supply of CO2 captured from an FPL facility.)

POSITION: *No. SFHHA supports OPC.*

ISSUE-63: Does FPL properly account for revenues received from FPL Fibernet and other telecommunications companies for utilizing long-haul fiber optic facilities hosted by FPL's electric transmission system?

POSITION: *No position.*

ISSUE-64: What are the appropriate projected amounts of other operating revenues for the 2013 projected test year?

POSITION: *SFHHA supports OPC.*

ISSUE-65: Is FPL's projected level of Total Operating Revenues of $4,407,253,000 ($4,505,007,000 system) for the 2013 projected test year appropriate?

POSITION: *No. FPL's projected Total Operating Revenues should be adjusted to more accurately reflect the clear warming trend based on 10-year weather patterns.*

DISCUSSION:

FPL's projected level of Total Operating Revenues of $4,407,253,000 ($4,505,007,000 system) for the 2013 projected test year is not appropriate. As discussed under Issue No. 10, *supra*, the appropriate level of Total Operating Revenues should reflect SFHHA's recommended 0.38% upward adjustment of FPL's forecasts of KWh and KW to account for the impact of a clear warming trend on FPL's sales of energy. Such adjustment reflects SFHHA's proposed 10-year CDH weather history, rather than FPL's inaccurate 20-year normal weather assumption.[122] *See* Issue No. 10, *supra*.

ISSUE-66: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?

POSITION: *No position.*

ISSUE-67: Should an adjustment be made to transfer incremental security costs from the Capacity Cost Recovery Clause to base rates?

POSITION: *No position.*

ISSUE-68: If incremental security costs continue to be recovered in the Capacity Cost Recovery Clause, should the Commission approve FPL's adjustment to transfer incremental security payroll loadings from base rates to the Capacity Cost Recovery Clause?

POSITION: *No position.*

ISSUE-69: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?

POSITION: *No position.*

ISSUE-70: Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?

POSITION: *No position.*

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[122] *See* Tr. 3130:18-3132:5 (Baron); Ex. 319 (Ex. SJB-13); Ex. 394; Ex. 395; Ex. 585.

ISSUE-71: Should FPL's adjustment to remove all costs for the Substation Pollution Discharge Prevention Program from base rates and include them in the Environmental Cost Recovery Clause be approved?

POSITION: *No position.*

ISSUE-72: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Energy Conservation Cost Recovery Clause?

POSITION: *No position.*

ISSUE-73: Should FPL's adjustment to remove ECCR clause related payroll loadings of $1,815,000 for FICA and unemployment taxes from base rates and include them in the Energy Conservation Cost Recovery Clause be approved?

POSITION: *No position.*

ISSUE-74: Has FPL made the appropriate adjustments to remove all non-utility activities from operating revenues and operating expenses for the 2013 projected test year?

POSITION: *SFHHA supports the position of OPC.*

ISSUE-75: Is the percentage value used to allocate NextEra Energy, Inc. corporate costs and/or expenses to FPL appropriate?

POSITION: *SFHHA supports the position of OPC.*

ISSUE-76: Is the percentage value used to allocate NextEra Energy, Inc. corporate costs and/or expenses to FPL appropriate?

POSITION: *SFHHA supports the position of OPC.*

ISSUE-77: Are the amounts of the NextEra Energy, Inc. corporate costs and/or expenses (including executive compensation and benefits) allocated to FPL fair, just, and reasonable?

POSITION: *No position.*

ISSUE-78: DROPPED.

ISSUE-79: Should any adjustments be made to FPL's operating revenues or operating expenses for the effects of transactions with affiliated companies for the 2013 projected test year?

POSITION: *SFHHA supports the position of OPC.*

ISSUE-80: What additional action (including, but not limited to, establishing a separate investigatory docket), if any, should the Commission take related to affiliate transactions as a result of the evidence taken in this docket?

POSITION: *SFHHA supports the position of OPC.*

ISSUE-81: Are FPL's overhead costs (salaries, materials and supplies, benefits, etc.) allocated to capital projects properly deducted from operating expenses?

POSITION: *No position.*

ISSUE-82: Has FPL made appropriate reductions in operating expenses where capital projects are not done in-house, but employee salaries and related overhead costs have been included in rate base?

POSITION: *No position.*

ISSUE-83: Has FPL properly reduced operating expenses in amounts equal to overheads reimbursed by third parties through contributions in aid of construction related to underground placement of distribution and transmission facilities?

POSITION: *No position.*

ISSUE-84: Has FPL properly reduced operating expenses in amounts equal to any overheads charged to third parties as contributions in aid of construction, fees or other payments to FPL?

POSITION: *No position.*

ISSUE-85: Should FPL salaries, costs and overheads for activities associated with (a) public relations or external affairs, (b) shareholder services, (c) attempted acquisitions of electric facilities, and (d) efforts opposing municipalizations pursuant to a franchise agreement be removed from operating expenses?

POSITION: *No position.*

ISSUE-86: Should FPL costs to pay contractors for legal, public relations or other consulting services be borne by customers or FPL shareholders?

POSITION: *No position.*

ISSUE-87: What is the appropriate amount of FPL's tree trimming expense for the 2013 projected test year?

POSITION: *There is no valid justification for an increase of $9.425 million in FPL's vegetation management expense in 2013 compared to FPL's budgeted 2012 expense. FPL's vegetation management expense for 2013 should be limited to its budgeted 2012 level, which equates to a reduction of $9.447 million grossed up

from FPL's proposed rate increase. The budgeted 2012 level is approximately equal to the actual 2011 level, which followed two years of significant increases by FPL.*

DISCUSSION:

SFHHA recommends that the Commission limit FPL's vegetation management expense to its budgeted 2012 expense of $59.23 million. Tr. 1330:8-11 (Hardy). The evidence demonstrates that none of the factors cited by FPL justify a vegetation management expense at the level that FPL has requested.[123] FPL's vegetation management expense therefore should not be based on the projected costs for 2013 because, as discussed below, 2013 is not representative of FPL's vegetation management cost for future periods.[124]

First, FPL has scheduled 4,800 miles of feeders to be trimmed in 2013. Ex. 526. This is an additional 500 miles of feeders to be trimmed as compared to prior years. Tr. 1319:10-12 (Hardy). FPL has to trim the additional 500 miles to meet its three-year average trim cycle. *Id.* However, as acknowledged by FPL Witness Hardy, FPL will not be trimming this additional 500-mile increment each year, and FPL's feeder mileage has actually been *decreasing*, not

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123 FPL attempts to justify its requested increase to $68.655 million based on three primary factors associated with trimming vegetation: (1) FPL will need to trim an additional 500 miles of feeders in 2013 to complete its three-year average trim cycle; (2) FPL's vegetation management contractor rates for 2013 will increase; and (3) the geographic location of vegetation scheduled to be trimmed in 2013 on FPL's lateral are more costly. Tr. 1319:10-19 (Hardy).

124 *See Jacksonville Suburban Utils. Corp. v. Fla. Pub. Serv. Comm'n*, 380 So. 2d 425, 426 (Fla. 1980) (affirming Commission's determination to use an average of all O&M expenses for the previous four years due to extraordinary test year costs); *Citizens of Fla. v. Fla. Pub. Serv. Comm'n*, 356 So. 2d 254, 256 (Fla. 1978) (stating, "because rates are fixed for the future rather than for the past, test year data may be adjusted in order properly to reflect typical conditions in the future period for which the rates [are] being fixed") (internal quotation omitted)); *In re: Petition of Fla. Power & Light Co. for an increase in its rates and charges*, Docket No. 820097-EU, Order No. 11980, 1983 Fla. PUC LEXIS 656, at *8 (1983) (denying certain fuel cost recovery because the test period overrecoveries were not "representative of future conditions . . . during the period the new rates are in effect"); *cf. In re: Application of So. States Utils., Inc. for Increase Water and Wastewater Rates in Collier County*, Docket No. 920655-WS, Order No. PSC-93-1070-FOF-WS at 39 (1993) (disallowing test year expense because the cost was "not a representative cost for future periods"); *In re: Petition of Cent. Tel. Co. of Fla. for rate increases*, Docket No. 891246-TL, *et al.*, Order No. 24178 at 24 (1991) (amortizing costs over a three-year period rather than allowing test year costs in rates because the level of costs in the test year were "not representative of future costs").

increasing. Tr. 1337:7-14, 1338:18-24 (Hardy). Therefore, the cost of this increase is not representative of FPL's cost for vegetation management beyond 2013. *See* n.124, *supra.*

Second, Exhibit 527 reveals that FPL obtained substantial rate concessions (*i.e.*, lower contractors' rates for vegetation management services) in 2008 due, in part, to competitively bidding the contracts.[125] Despite the success of competitive bidding in 2008, FPL chose to execute contracts with its current contractors at a higher rates in 2011. *See* Ex. 527. The Commission should not allow FPL to increase its vegetation management expense to reflect higher contractor rates given FPL's failure to seek the lowest cost vegetation management services through competitive bidding, as was achieved in 2008.

Third, the geographic location scheduled to be trimmed in 2013 is not typical of FPL's annual vegetation management cost. Exhibit 529 reveals that FPL's vegetation management cost across all of its management areas, with the exception of one, are projected to *decrease* in 2013.[126] Based on this exhibit, the sole reason that vegetation management costs are projected to rise is due to the location of scheduled trimming in 2013. Ex. 529 at 019087-88. As FPL Witness Hardy stated, "tree trimming costs per mile for a given management area can vary significantly based on factors such as differences in the vegetation density of each mile trimmed, elapsed time since the circuit was last trimmed, accessibility and permitting requirements." Tr. 1319:16-19 (Hardy). While the cost of trimming laterals in the selected location for 2013 may be more costly than normal, the Commission should not use this abnormal condition to base FPL's vegetation management expense for future periods. Doing so would inflate the cost of vegetation management to an unrepresentative level above FPL's cost for the years following

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[125] Tr. 1322:16-19 (Hardy) (stating that the concession achieved from the 2008 negotiations led to a savings of $3.9 million in 2008 and $11.6 million in 2009); *see also* Tr. 1340:13-19 (Hardy).

[126] Ex. 529 at 019087-88; *accord* Tr. 1346:12-16 (Hardy) (agreeing that "the cost in each management area for vegetation management fell from 2012 to 2013," with the exception of one management area).

2013. *See* n.124, *supra.* Furthermore, as FPL Witness Hardy pointed out, the amount of time since the circuit was last trimmed will significantly affect cost. Tr. 1319:18 (Hardy). 2013 marks the end of the first trim cycle on its lateral. Thus, having trimmed all of the laterals at least once in previous six years, FPL's vegetation management expense from the first cycle to the second cycle should be lower.[127]

The evidence in the record is more than ample to support SFHHA's position that FPL's projected vegetation management expense is not representative of its cost for future periods; rather, substantial evidence supports a finding that FPL's vegetation management expense should be appropriately set at its 2012 budgeted level of $59.23 million. This is reinforced by FPL's actual and budgeted vegetation management expenses in 2011 and 2012, which are approximately equal.[128] Accordingly, the increase FPL seeks of $9.425 million from the 2012 budgeted level is not justified.[129] Holding FPL to its 2012 budgeted level will ensure that customers are not paying an inflated expense caused by FPL's use of non-representative expenses in 2013 to be included in rates for future periods.

ISSUE-88: What is the appropriate amount of FPL's pole inspection expense for the 2013 projected test year?

POSITION: *SFHHA supports OPC's recommended reduction of $2.740 million from FPL's proposed pole inspection expense in 2013.*

ISSUE-89: What is the appropriate amount of FPL's production plant O&M expense for the 2013 projected test year?

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127 *See* Tr. 952:16-953:1 (Hardy); *see also* Tr. 3222:3-10 (Kollen).

128 FPL's actual vegetation management expense in 2011 was $60.382 million and FPL's budgeted expense in 2012 is $59.230 million. Ex. 334 (Ex. LK-15).

129 For the first time, in its rebuttal case, FPL improperly re-characterizes its proposed $9.425 million (16%) increase in vegetation management expense as a proposed $6 million (9%) increase due to FPL's realization that it under-forecasted its 2012 vegetation management expense. Tr. 1318:15-1319:7 (Hardy). However, FPL was aware that the 2012 vegetation management budget was under-forecasted when the FPL budget review committee approved this budget. Tr. 1331:4-11 (Hardy); Ex. 525. FPL should not now be rewarded for its tardy disclosure of this fact to participants and this Commission.

POSITION: *FPL proposes $663.392 million of production plant O&M expense for the 2013 projected test year. SFHHA recommends a reduction to this expense for 2013, including at a minimum, *inter alia*, $15.147 million for FPL's nuclear outage maintenance expense, using the average of the three most recent years, and $37.313 million, reflecting the excessive amount for the amortization of the regulatory liability due to FPL's flawed methodology. SFHHA also agrees with OPC's recommended reductions.*

DISCUSSION:

See SFHHA's Discussion of Issue Nos. 43, 110 and 111.

ISSUE-90: What is the appropriate amount of FPL's transmission O&M expense for the 2013 projected test year?

POSITION: *FPL proposes $55.677 million for its transmission expense for the 2013 projected test year. SFHHA agrees with OPC's recommended reductions to this expense.*

ISSUE-91: What is the appropriate amount of FPL's distribution O&M expense for the 2013 projected test year?

POSITION: *FPL proposes $286.058 million for its distribution O&M expense for the 2013 projected test year. SFHHA recommends a reduction to this expense for 2013, including, *inter alia*, a reduction of $9.425 million on FPL's vegetation management expense and $23.674 million due to savings from AMI meters.*

DISCUSSION:

FPL should reduce its proposed $286.058 million for distribution O&M expense for the 2013 Test Year by $9.425 million to reflect FPL's 2012 budget level for vegetation management expenses. As discussed under Issue No. 87, *supra*, FPL's vegetation management expense should be decreased because its requested level of expenses for vegetation management is neither consistent with past expenditures, nor reflective of likely future expenditures in years after the 2013 test year. *See* SFHHA's Discussion of Issue No. 87, *supra*. FPL also should reduce its proposed $286.058 million for distribution O&M expense for the 2013 Test Year by $23.674 million to reflect savings from AMI meters. As discussed under Issue Nos. 112 and 113, *infra*, FPL should pass the millions in savings from the deployment and implementation of

AMI meters to ratepayers, which will not happen if these savings are not included in the 2013 Test Year. *See* SFHHA's Discussion of Issue Nos. 112 and 113, *infra.*

ISSUE-92: DROPPED.

ISSUE-93: DROPPED.

ISSUE-94: DROPPED.

ISSUE-95: If in its resolution of Legal Issue 1 the Commission determines it has legal authority to do so, should it approve FPL's proposed storm cost recovery mechanism?

POSITION: *No. The proposed mechanism is unnecessary and would be harmful to customers. The reserve is significantly funded at this time. Further, the 2010 settlement agreement cannot serve as precedent. FPL's proposal is flawed because, *inter alia*, it would allow recovery regardless of an existing reserve, the recovery is effectively self-executing without Commission review, the recovery period is unnecessarily short (12-month), and would fully restore the reserve.*

DISCUSSION:

The Commission should reject FPL's proposed storm damage cost recovery mechanism ("Storm Mechanism"). The Storm Mechanism is one element of the 2010 settlement agreement to resolve numerous contested issues in FPL's prior rate case. The parties only accepted the Storm Mechanism as part of the overall give and take on the numerous contested issues in that proceeding. The Storm Mechanism does not reflect the litigation positions of SFHHA or the parties in this proceeding. The 2010 settlement agreement specifically states that "[n]o party will assert in any proceeding before the Commission that this Agreement or any of the terms in the Agreement shall have any precedential value." Tr. 3236:5-8 (Kollen). The 2010 settlement agreement therefore cannot serve as precedent in this proceeding. *See* Tr. 3235:20-3236:10 (Kollen).

Furthermore, as explained by SFHHA Witness Kollen, the Storm Mechanism is flawed on its own merits and is unnecessarily harmful to customers. First, the Storm Mechanism

enables FPL to recover any amount of storm damage costs regardless of the balance in FPL's storm damage reserve. FPL projects a balance of $207.510 million in the storm damage reserve for Test Year 2013, and therefore does not need additional funds to replenish its existing storm damage reserve. Tr. 3236:16 (Kollen); Ex. 487 at MFR Schedule B-21. Second, the Storm Mechanism would enable FPL to recover any amount of storm damage costs automatically without Commission review. Such a self-executing mechanism denies intervenor participation regarding the prudency of such costs. Tr. 3236:19-3237:2 (Kollen). Third, the Storm Mechanism's 12- month recovery period is an inordinately short period of time in which to recover potentially hundreds of millions of dollars of costs from FPL ratepayers. Tr. 3237:3-6 (Kollen). Fourth, the Storm Mechanism imposes an unnecessary income tax cost on the recovery of storm damage costs by enabling FPL to collect storm damage costs before actually incurring such costs. By collecting storm damage costs after the actual damage occurs, FPL would avoid collecting amounts in advance which have to be grossed up to cover income tax expense, and thereby minimize the total cost to FPL ratepayers. Tr. 3237:12-14 (Kollen). Fifth, Section 366.8260 of the Florida Statutes permits FPL to recover its reasonable and necessary storm damage costs and to replenish the storm damage reserve through a surcharge pursuant to securitization financing. Not only does this method of financing guarantee FPL recovery of storm damage costs, but it also provides FPL ratepayers with the benefits of low-cost financing. Tr. 3237:15-21 (Kollen). *See* FLA. STAT. § 366.8260 (2012). The only rationale that FPL uses to support the Storm Mechanism is that continuation of the Storm Mechanism reduces the number of complex issues that the Commission and parties need to address in this proceeding.[130] In fact, by proposing the Storm Mechanism's continuation, FPL has added to, not reduced, the number

[130] Tr. 1911:5-7 (Dewhurst); Tr. 4761:14-18 (Dewhurst); Tr. 2036:6-8 (Dewhurst).

of issues the Commission must address in this case, and has simply ignored the substantive flaws of the Storm Mechanism.

The Commission does not need to approve any mechanism for FPL to recover storm damage costs in this proceeding because FPL's storm damage reserve is substantially funded. In the future, if FPL incurs costs above the amount currently in the storm damage reserve, FPL can always petition the Commission for the recovery of such costs. Tr. 3237:7-11, 3238:4-7 (Kollen). FPL's CFO incorrectly claimed that Mr. Kollen ignores "the high likelihood of major tropical storms in FPL's" service territory. Tr. 4763:1-3 (Dewhurst). To the contrary, Mr. Kollen specifically addressed the likelihood of storms, stating that "there is no need and no other valid reason to intentionally restore the reserve to its prior level if in fact it is fully depleted for the costs of future storms . . . because [FPL] can petition the Commission for deferral of storm costs if and when they are incurred and petition the Commission for recovery of the deferred costs." Tr. 3237:7-11 (Kollen). FPL's CFO also acknowledged that FPL can petition at any time for the recovery of storm damage costs. Tr. 2036:25-2037:4 (Dewhurst). Thus, the Commission should not authorize the restoration of a funded reserve to the extent that it is depleted because the appropriate and least-cost level of the storm damage reserve is $0.00. Tr. 3237:7-11 (Kollen). Additionally, as Mr. Kollen suggested, the Commission should consider earnings in excess of FPL's authorized return and other factors such as the excess depreciation reserve, as potential offsets to the deferral and recovery of storm damage costs that actually are incurred in the future. Tr. 3237:22-3238:3 (Kollen).

ISSUE-96: What is the appropriate annual storm damage accrual and storm damage reserve for the 2013 projected test period?

POSITION: *No accrual is necessary. FPL has a substantial storm damage reserve and has mechanisms available to it to obtain funds in the event of excessive storm damages. The cost to ratepayers of those alternative mechanisms (such as securitization) would be less than the cost of an annual accrual.*

DISCUSSION:

No accrual of storm damage costs is necessary. As discussed in Issue No. 95, FPL's storm damage reserve is substantially funded as evidenced by FPL's projection of $207.510 million in the storm damage reserve for Test Year 2013. If FPL depletes its storm damage reserve, FPL has mechanisms to recover any additional storm damage costs. For instance, as discussed above, Section 366.8260 of the Florida Statutes permits FPL to recover its reasonable and necessary storm damage costs and to replenish the storm damage reserve through a surcharge pursuant to securitization financing. Section 366.8260 both guarantees cost recovery for FPL and provides FPL ratepayers with low-cost securitization financing. Tr. 3237:15-21 (Kollen). *See* FLA. STAT. § 366.8260 (2012). In any event, as FPL's CFO acknowledged, FPL can file a petition with the Commission for the recovery of costs which FPL incurs above the amount currently in the storm damage reserve. Tr. 2036:25-2037:4 (Dewhurst). Therefore, at this time, FPL has no need to accrue storm damage costs. Furthermore, as also discussed under Issue No. 95, the appropriate level of FPL's storm damage reserve is $0.00. Tr. 3237:7-11 (Kollen).

ISSUE-97: DROPPED.

ISSUE-98: DROPPED.

ISSUE-99: Should an adjustment be made to FPL's level of executive compensation for the 2013 projected test year?

POSITION: *No position.*

ISSUE-100: Should an adjustment be made to FPL's level of non-executive compensation for the 2013 projected test year?

POSITION: *No position.*

ISSUE-101: Are FPL's proposed increases to average salaries for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-102: Is FPL's projected level of employee positions for the 2013 projected test year appropriate?

POSITION: *No. FPL's projected level of employee positions for 2013 (*i.e.*, 10,147) is excessive. The average number of employees in 2011 was 9,971. In May 2012, the employee count was just 9,921. FPL has a history of not filling the number of its authorized positions and FPL Witness Slattery stated that the industry continues to face a severe shortage of skilled workers.*

DISCUSSION:

FPL has requested that the Commission authorize 10,147 positions for the 2013 projected test year. FPL's requested authorization level represents an increase of its current employee levels.[131] However, historical data show that FPL has a long history of not filling the number of its authorized positions, Ex. 259 at 2 (Ex. HWS-2 at 2), and FPL's own testimony shows it is doubtful FPL will employ the projected 10,147 employees in 2013.[132] In Docket No. 08-0677-EI, the Commission reduced the number of positions it used for setting FPL's headcount level based on the historic variance between authorized and actual employee levels.[133] Based on current and historical data, the Commission should do the same here as FPL's projected employee level is excessive and should be reduced.

The average variance between authorized and actual employee levels for the five months ending May 2012 (*i.e.*, the most current data in the record) is 3.76%.[134] OPC Witness Schulz recommended that the Commission reduce FPL's projected 2013 employee levels by this variance, which would reflect a reduction from FPL's authorized headcount from 10,147 to

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131 As of May 2012, FPL's total headcount was 9,921. Ex. 259 at 2 (Ex. HWS-2 at 2).

132 *See* Tr. 3505:10-17 (Slattery) (acknowledging that FPL's projected staffing levels are management's estimates of what is needed to do the required work based on optimal staffing levels, but a number of factors have made it difficult to fill those positions).

133 FPL 2010 Rate Order, *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 080677-EI, Order No. PSC-10-0153-FOF-EI at 144 (2010).

134 *See* Ex. 259 at 2 (Ex. HWS-2 at 2); *see also* Tr. 2641:6-8 (Schultz).

9,766. This reduction would result in a $24.968 million ($24.578 million jurisdictional) reduction in payroll expense. Tr. 2641:7-11 (Schultz). This reduction is both reasonable and appropriate as it is representative of the unfilled positions that FPL will have during the 2013 test year. FPL 2010 Rate Order at 144.

FPL's argument that it is not proper to analyze payroll based on staffing levels, and that payroll more appropriately should be analyzed based on dollars spent (Tr. 3507:3-6 (Slattery)), is without merit. In the last FPL rate case, the Commission adjusted FPL's payroll based on the historical variance between authorized and actual employee levels. FPL 2010 Rate Order at 144. In that case, the Commission applied the 2007 variance of 2.48% in determining a disallowance to payroll expense, finding that "the data from 2007 is more representative of the number of unfilled positions that FPL will have in 2010." *Id.* Similarly, FPL's historical staffing level variance should be reflected in setting FPL's payroll expense here.

Additionally, the Commission should reject FPL's argument that its authorized staffing levels should be increased because the industry continues to face a severe shortage of skilled workers due to an aging workforce, skill gaps in the talent pool, and emerging technologies, with special emphasis on the nuclear employees. *See* Tr. 1503:19-1505:2 (Slattery). FPL presented a very similar argument to justify an increase in staffing levels in Docket No. 080677-EI. Although the Commission reduced FPL's requested staffing levels in the FPL 2010 Rate Order at 144, FPL never achieved even those reduced levels, as indicated by Exhibit 259 at p. 2. Accordingly, FPL cannot argue that the positions were not filled due to a lack of revenues arising from the Commission's recognition of lower staffing levels than FPL projected. Tr. 2640:23-2641:2 (Schultz). Likewise, any reduction in headcount the Commission recognizes here for purposes of setting rate will not affect FPL's ability to fill vacancies.

Therefore, for purposes of determining the expense associated with FPL's workforce, the Commission should reduce FPL's projected headcount by 3.76% as representative of the number of unfilled positions FPL will have in 2013.

ISSUE-103: What is the appropriate amount of Other Post Employment Benefits Expense for the 2013 projected test year?

POSITION: *No position.*

ISSUE-104: What is the appropriate amount of FPL's requested level of Salaries and Employee Benefits for the 2013 projected test year?

POSITION: *No position.*

ISSUE-105: What is the appropriate amount of Pension Expense for the 2013 projected test year?

POSITION: *No position.*

ISSUE-106: Should an adjustment be made to the amount of the Directors and Officers Liability Insurance expense that FPL included in the 2013 projected test year?

POSITION: *No position.*

ISSUE-107: What is the appropriate amount of accrual for the Injuries & Damages reserve for the 2013 projected test year?

POSITION: *No position.*

ISSUE-108: What is the appropriate amount and amortization period for Rate Case Expense for the 2013 projected test year?

POSITION: *No position.*

ISSUE-109: What is the appropriate amount of uncollectible expense and bad debt rate for the 2013 projected test year?

POSITION: *No position.*

ISSUE-110: What is the appropriate accounting methodology for the Nuclear Outage Maintenance Expense?

POSITION: *The appropriate accounting methodology for the Nuclear Outage Maintenance Expense is the post-paid method of reserve accounting. SFHHA supports the post-paid method of reserve accounting because, compared with the pre-paid method, the post-paid method is less expensive for FPL customers, is more

accurate, and does not cause over-recovery issues at the end of a unit's useful service life.*

DISCUSSION:

See SFHHA's Discussion of Issue No. 43.

ISSUE-111: What is the appropriate amount of the Nuclear Outage Maintenance Expense and Nuclear Outage Maintenance Reserve for the 2013 test year?

POSITION: *The appropriate amount of the Nuclear Outage Maintenance Expense for the 2013 test year should consist of the average of the Nuclear Outage Maintenance Expense for the years 2010, 2011, and 2012, resulting in a $15.183 million reduction of FPL's revenue requirements. Additionally, the Commission should require the use of a post-paid methodology, resulting in a $35.639 million reduction.*

DISCUSSION:

SFHHA recommends that the Commission levelize the costs of the Nuclear Outage Maintenance Expense based on the average of the most recent three-year period (2010-2012), and use the post-paid method of reserve accounting for the Nuclear Outage Maintenance Reserve.[135] Levelizing the Nuclear Outage Maintenance Expense over the most recent three-year period results in a $15.183 million reduction of FPL's proposed revenue requirement. Changing the reserve accounting methodology from the present pre-paid method to the recommended post-paid method results in a $35.639 million dollar reduction in FPL's proposed revenue requirement. *See* Tr. 3242:10-19 (Kollen).

With regard to the Nuclear Outage Maintenance Expense, FPL included **$105.463** million for this expense in the test year. FPL's request for the test year is significantly more than it actually incurred or budgeted in prior years and more than it projects in later years. According to FPL's response to SFHHA POD 9, FPL actually incurred $92.129 million in 2010, $84.326 million in 2011, and has budgeted $93.603 million for 2012. Ex. 331 at 5632 (Ex. LK-12 at 1).

[135] *See* SFHHA's Discussion of Issue No. 43, *supra*, for SFHHA's recommendation to modify FPL's reserve accounting to the post-paid methodology.

Following the test year, FPL's projected expense for Nuclear Outage Maintenance Expense drops to $96.941 in 2014 and **$61.060** million in 2015. *Id.* Thus, FPL's requested expense for the test year is substantially higher than the preceding years as well as the subsequent years and, therefore, is not representative of the expense for future periods. *See* n.124, *supra.*

Further, FPL's request fails to recognize that in some years it incurs costs for three outages, such as 2013, and in some years it incurs costs of only two outages. Tr. 3212:3-7 (Kollen); *see also* Tr. 3212:8-15 (Kollen). FPL made no attempt to levelize these costs to reflect the cost of outages on an average number of outages annually. SFHHA's recommended levelization recognizes that, in a three-year period, there are two years where FPL will have three outages and one year where it will only have two outages. Using the average cost over a three-year period, rather than just the costs associated with 2013, will more appropriately represent FPL's cost for future periods. *See* n.124, *supra.*

Finally, it should be recognized that FPL cannot project with certainty either the timing or the costs of its outages,[136] and FPL's requested expense is simply an estimate for ratemaking purposes, an estimate that it has every incentive to maximize.[137] Accordingly, SFHHA's recommended three-year levelization approach further ensures that the authorized expense more appropriately reflects FPL's Nuclear Outage Maintenance Expense for future periods.

ISSUE-112: Has FPL included the appropriate amount of expense associated with the AMI smart meters in the 2013 projected test year?

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136 *See* Ex. 331 at 5632 (Ex. LK-12 at 1) (showing delays to scheduled outages for Port St. Lucie 1); Tr. 3212:3-15 (Kollen); Tr. 3801:18-3802:15 (Ousdahl).

137 *Id.* at 3212:16-22 (Kollen) (stating that, because FPL does not actually expense the amount authorized by the Commission for recovery, but rather FPL "unilaterally determines the actual outage expense based on its preemptive amortization of the projected costs of the next outage for each unit, which it then trues up to the amounts actually incurred during the actual outage," there is an incentive by FPL to maximize its authorized amount of recovery for the Nuclear Outage Maintenance Expense).

POSITION: *No. FPL proposes to increase its projected annual AMI meter expense for 2013 from the $10.458 million projected in its prior rate case to $20.739 million. The Commission relied on FPL's expense projections when it approved FPL's base rate increase in the prior case, and should hold FPL to its projections. During 2009-2013, FPL's estimate of the cost of the meters in 2012 *surged* by more than 50%. *See* SFHHA's Discussion of Issue No. 113.*

DISCUSSION:

While SFHHA did not contest FPL's projection of the overall 2013 test year expense that FPL believes it will incur on behalf of the AMI smart meter project, SFHHA does contest the use of that projection in order to set rates in this proceeding for the reasons set forth in SFHHA's Discussion of Issue No. 113, *infra.* Rather than allow FPL to include a net O&M of $3.744 million, FPL should be required to provide customers with the net O&M savings of $19.943 million as projected for 2013 in Docket No. 080677-EI.[138] This would have the effect of reducing FPL's revenue requirements by $23.731 million, and would incentivize FPL to incur fewer costs and achieve a greater amount of savings than otherwise projected for the test year. Tr. 3224:15-18. *See* discussion under Issue No. 113.

ISSUE-113: Has FPL included the appropriate amount of savings associated with the AMI smart meters in the 2013 projected test year?

POSITION: *No. In 2009, FPL estimated savings in 2012 of $18 million from the AMI smart meters; now however, that estimate of 2012 savings has collapsed by 50%. The Commission relied on FPL's projection of savings when it approved FPL's rate base increase in the prior FPL proceeding, and should hold FPL to its projections. *See* SFHHA's Discussion of Issue No. 112.*

DISCUSSION:

FPL has not included the appropriate amount of savings associated with the AMI smart meters in the 2013 projected test year. The Commission should reject FPL's attempt to include in this proceeding nearly double the 2013 O&M expenses ($20.739 million v. $10.458 million)

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[138] *See* Tr. 3225:3 (Kollen) (second table reflecting a Net O&M for 2013 of $3.744 million as projected by FPL in this docket); Tr. 3225:1 (Kollen) (first table reflecting a Net O&M for 2013 of negative $19.943 million as projected by FPL in Docket No. 080677-EI).

and approximately half of the 2013 savings ($16.996 million v. $30.401 million) compared to those projected by FPL in its prior rate case. Tr. 3225:1-3226:2 (Kollen). The Commission should instead require FPL to provide to customers the $19.943 million of *net O&M savings* that FPL promised in its prior rate case proceeding and upon which both the Commission and FPL's customers relied when assessing the anticipated costs and benefits of the AMI smart meters.[139] In fact, FPL Witness Barrett testified directly upon this issue, stating that "it's fair that [FPL] be held accountable for the savings of the [smart meter] project in its entirety as they were estimated . . . in the original business case." Tr. 3623:6-12 (Barrett).

FPL continues to delay flowing through any net O&M savings to its customers. In both FPL's prior and current rate case, FPL projected that net O&M savings would begin just outside the test year (*i.e.*, 2012 and 2014, respectively).[140] Therefore, the rates set in FPL's prior rate case did not reflect any of the 2012 or 2013 net savings that FPL projected for customers at that time. Tr. 1270:17-22 (Santos). Similarly, if rates in this case are set using the projected 2013 test year, such rates will again fail to reflect any of the net O&M savings FPL projects for 2014 and beyond. Instead, FPL will overrecover its smart meter costs through: (1) the recovery of all projected O&M costs; and (2) the recovery of all net O&M savings (*e.g.*, approximately $34 million for 2014). Tr. 1267:4-6 (Santos). Therefore, FPL Witness Deason's arguments regarding the "appropriateness" of using the test year data only are moot. *See* Tr. 3897:7-3899:17 (Deason). Unless the Commission holds FPL to its original projections, FPL's

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139 Tr. 3225:1 (Kollen) (first table reflecting a Net O&M for 2013 of negative $19.943 million as projected by FPL in Docket No. 080677-EI); Tr. 3225:10-3226:4 (Kollen) (noting the Commission's reliance on FPL's projections in Docket No. 080677-EI); Tr. 3226:5-8 (Kollen) (noting the projected savings were relied upon by customers as an "integral offset" to the capital costs incurred under the smart meter project); FPL 2010 Rate Order at 96 (finding that the smart meter project would lead to increased savings).

140 Tr. 1270:13-16, 1274:1-6 (Santos). In fact, FPL testified in its prior rate case that "[b]eginning in 2012, the O&M savings are greater than the O&M costs associated with AMI" and "[b]eginning 2013, the net O&M savings exceed $30 million annually." FPL 2010 Rate Order at 96.

customers will be prevented from recovering, *at the earliest* (presuming a subsequent rate case again does not, like the last two rate cases, push net savings to just a year or two beyond the test year), any net O&M savings until new rates are set in a subsequent rate proceeding in which FPL projects additional net O&M savings for the relevant test year. Because FPL has failed to achieve the savings promised to customers, and has again delayed the savings to just one year beyond the test period (*i.e.*, 2014), FPL should not be able to reap the benefit of its actions and should be held to its original projections.[141]

Further, FPL's testimony reflects that its customers should already be benefiting from the millions in savings projected to result from the deployment and implementation of the smart meters. The smart meter project involves the installation of smart meters for approximately 4 million of FPL's customers, and of those, FPL has installed more than 3.7 million smart meters to date. Tr. 781:25-782:7 (Santos), Tr. 843:23-844:3 (Santos). FPL projects that it will achieve full deployment of those smart meters by the early summer 2013. Tr. 1257:4-6 (Santos), Tr. 782:8-12 (Santos). FPL has testified that the installation and use of smart meters would result in certain operational efficiencies due to capabilities such as remote reading, and that the *majority of savings* resulting from the smart meter program would result from this remote reading capability.[142] FPL is currently performing remote readings to bill FPL's customers and complete orders associated with the opening and closing of those customer accounts; in fact, FPL was able to perform remote reading and billing with the approximately 100,000 smart meters FPL had installed during the prior rate case period. Tr. 784:9-785:12 (Santos); *see also* Tr. 1257:20-

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141 Tr. 1257:10-12 (Santos) (noting that the savings projected will still be realized, albeit at a different time).

142 Tr. 782:14-19 (Santos); Ex. 521 at 1644:9-11; Tr. 1272:10-18 (Santos). FPL also testified that it would be reducing the total number of positions necessary given the remote reading capabilities of smart meters. Tr. 1273:10-20 (Santos).

1258:2 (Santos). Therefore, it is unclear why the smart meter program has failed to result in any net O&M savings between 2009 and the 2013 projected test year. Tr. 1273:21-25 (Santos).

FPL's arguments that customers receive savings and benefits through the ability to monitor and manage their energy usage are also unsupported. For example, FPL Witness Santos testified to the ability of customers to access more detailed information about their energy consumption via an online energy dashboard. Tr. 785:24-786:9 (Santos). Yet, out of all of FPL's customers, including the over 3 million customers with smart meters installed, only 312,000 customers had accessed FPL's online energy dashboard through April 2012, and of these, less than 1.9% received energy information related to the production of their next bill and highest peak usage. Tr. 786:10-21 (Santos); Tr. 788:5-19 (Santos); Ex. 511. FPL did not conduct any studies to evaluate the usage behavior of their customers due to the activation of smart meters (Tr. 790:4-8 (Santos); Ex. 512), nor has FPL identified any megawatt hour or dollar savings associated with the estimated impacts of smart meters on customer demand (Tr. 1276:12-17 (Santos); Ex. 522).

Because FPL will overrecover its smart meter costs and successfully prevent its customers from achieving any net O&M savings if rates are set in this proceeding based solely upon the 2013 projected test year, the Commission should set rates based upon the projections used in FPL's prior rate proceeding. This action is further warranted given that FPL has failed to explain why net O&M savings continue to be deferred, despite the fact that the majority of smart meters have been installed, activated and used for remote reading purposes, which is the primary driver of reduced O&M costs. FPL has also failed to demonstrate that its customers have materially benefited by modifying their energy consumption or reducing demand due to the installation of smart meters. This enhances the need for customers to benefit through net O&M

savings as promised in the prior rate proceeding. For these reasons, the Commission should reject the amount of savings proposed by FPL and instead require FPL to provide its customers with the 2013 net O&M savings of $19.943 million projected by FPL in its prior rate case.

ISSUE-114: Is FPL's requested level of O&M Expense of $1,542,322,000 ($1,568,633,000 system) for the 2013 projected test year appropriate?

POSITION: *No. FPL's requested level of O&M Expense of $1,565,788,000 ($1,568,633,000 system) for the 2013 projected test year is not appropriate, in part, because FPL overestimates its proposed nuclear outage maintenance, vegetation management, and AMI meters expenses. FPL also underestimates savings attributable to AMI meters for the 2013 projected test year. FPL's overestimations and underestimations have the net impact of overestimating FPL's requested level of O&M Expense.*

DISCUSSION:

FPL's requested level of O&M Expense of $1,542,322,000 for the 2013 projected test year is not appropriate. Due to the adjustments to nuclear outage maintenance, vegetation management, and smart meters proposed by SFHHA, discussed *supra*, FPL's O&M Expense for the 2013 projected test year should be reduced by at least $85.559 million. Further, SFHHA supports the adjustments proposed by OPC with respect to employee count reductions, rate case expense, pole inspection expense, affiliate transaction issues and generation overhaul expense. To the extent such adjustments are approved by the Commission, this would reduce FPL's O&M Expense by an additional $70.693 million. *See* SFHHA's Discussion of Issue Nos. 87, 88, 89, 91, 111, 112 and 113.

ISSUE-115: What is the appropriate amount of depreciation and fossil dismantlement expense for the 2013 projected test year?

POSITION: *No position.*

ISSUE-116: Is FPL's requested amortization of $191,000,000 the appropriate amount of the theoretical depreciation reserve surplus to be amortized for the 2013 projected test year?

POSITION: *No position.*

ISSUE-117: Given that in Order No. PSC-11-0089-S-EI the Commission directed FPL to complete the amortization of $894 million of depreciation surplus during the period 2010-2013, and in light of the Commission's decision regarding the amount of remaining reserve surplus to be amortized in the 2013 test year in conjunction with the resolution of Issue No. 116, should the Commission direct FPL to discontinue recording amortization of reserve surplus on its books after 2013 unless authorized or directed by subsequent Commission order?

POSITION: *Yes. Further, FPL cannot continue on its own volition an accounting adjustment for the negative depreciation expense after 2013 and effectively defer an additional $191 million each year without Commission authorization. This approach would be unsupported, a stealth rate increase, and inconsistent with Generally Accepted Accounting Principles ("GAAP").*

DISCUSSION:

The Commission should direct FPL to discontinue recording amortization of reserve surplus on its books after 2013. In his Rebuttal Testimony, Mr. Barrett agreed that FPL would do so; thus, there is no disagreement on this issue among the parties and the Commission should memorialize this agreement in its Order. *See* Tr. 3605:2-4 (Barrett).

ISSUE-118: Is FPL's requested level of Depreciation and Amortization Expense of $802,761,000 ($819,794,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-119: Is FPL's requested level of Taxes Other Than Income of $371,710,000 ($378,853,000 system) for the 2013 projected test year appropriate?

POSITION: *SFHHA supports OPC. This results in a $1.577 million reduction (before gross-up) in payroll taxes related to headcounts.*

ISSUE-120: Should the Commission adjust FPL's test year current state income taxes or rate base to recognize benefits, if any, that FPL has provided, or will provide, to any affiliates in furtherance of the affiliate's ability to elect to apportion adjusted Federal income tax under s.220.153, Florida Statutes (single sales factor)?

POSITION: *No position.*

ISSUE-121: Is FPL's requested level of Income Taxes of $513,276,000 ($528,838,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-122: Is FPL's requested level of (Gain)/Loss on Disposal of Plant of negative $2,641,000 (negative $2,641,000 system) for the 2013 projected test year appropriate?

POSITION: *No position.*

ISSUE-123: Is FPL's requested level of Total Operating Expenses of $3,250,894,000 ($3,317,404,000 system) for the 2013 projected test year appropriate?

POSITION: *FPL's requested level of Total Operating Expenses should be reduced by $158.206 million. *See* Issue Nos. 87, 88, 89, 91, 111, 112, 113, 114 and 119.*

ISSUE-124: Is FPL's projected Net Operating Income of $1,156,359,000 ($1,187,603,000 system) for the 2013 projected test year appropriate?

POSITION: *FPL's projected Net Operating Income should be reduced by $174.354 million. *See* Issue Nos. 10, 11, 12, 13, 87, 88, 89, 91, 111, 112, 113, 114 and 119.*

REVENUE REQUIREMENTS

ISSUE-125: What are the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for FPL?

POSITION: *No position.*

ISSUE-126: Is FPL's requested annual operating revenue increase of $516,521,000 for the 2013 projected test year appropriate?

POSITION: *No. FPL's requested annual operating revenue increase should be reduced by at least $615.662 million.*

DISCUSSION:

FPL's requested annual operating revenue increase of $516,521,000 for the 2013 Test Year is not appropriate, and should be reduced by at least $615,662 million. *See* Tr. 3239:16-19, 3240 (Table) (Kollen). SFHHA's $530.851 million reduction to FPL's proposed annual operating revenue increase consists of SFHHA's recommended: (1) rate case adjustments related to (1.i) converting determination of cash working capital from a balance sheet to a lead/lag approach, *see* Issue Nos. 40, 41, and 45, *supra*, (1.ii) converting accounting for FPL's nuclear maintenance reserve from a prepaid to a postpaid methodology, *see* Issue Nos. 43 and

45, *supra*, (1.iii) eliminating unamortized rate case expense, *see* Issue Nos. 34 and 45, *supra*, and (1.iv) reducing CWIP in rate base and making the excluded amount eligible for treatment as AFUDC, *see* Issue Nos. 25, 26, 27, and 45, *supra*; (2) operating income adjustments related to (2.i) accounting for nuclear maintenance outage expenses, *see* Issue Nos. 43, 45, 89, 110, 111, and 114, *supra*, (2.ii) vegetation management expense, *see* Issue Nos. 87, 91, and 114, *supra*, (2.iii) net AMI deployment savings, *see* Issue Nos. 91, 112, 113, and 114, *supra*, and (2.iv) operating revenues to utilize a 10-year weather history, *see* Issue Nos. 10, 11, 12 and 13, *supra*; and, (3) capital structure and rate of return adjustments related to (3.i) ADIT for rate base adjustments, *see* Issue No. 46, *supra*, and (3.ii) a 9% ROE, *see* Issue Nos. 51, 58, 59, and 61, *supra*. *See* Tr. 3240 (Table) (Kollen). Further, SFHHA supports the adjustments proposed by OPC with respect to other accounts receivable not necessary for providing utility service, employee count reductions, rate case expense, pole inspection expense, affiliate transaction issues, payroll tax expense related to employee count reductions and generation overhaul expense, which total an additional $84.811 million reduction to FPL's proposed annual operating revenue increase.

ISSUE-127: What economic impact will FPL's request for a rate increase have on customers, businesses and communities in Florida, including economic development activities and raising capital in Florida?

POSITION: *No position.*

BASE RATE STEP ADJUSTMENT

ISSUE-128: Should the Commission approve a base rate step adjustment for the Canaveral Modernization Project?

POSITION: *The Commission should approve a base rate step adjustment for the Canaveral Modernization Project only if the project commences commercial operation within the test year and, at a maximum, only at the adjusted level recommended in the testimony of SFHHA Witness Kollen.*

DISCUSSION:

The Commission should approve a base rate step adjustment for the Canaveral Modernization Project ("CMP") only if the project commences commercial operation within the 2013 Test Year. If the Commission approves a base rate step adjustment for the CMP, any such increase should be adjusted pursuant to the recommendations of SFHHA Witness Kollen. *See* SFHHA's Discussion of Issue No. 134, *infra.*

ISSUE-129: Should deferred taxes be included in the capital structure rather than as a reduction to rate base for the Canaveral Modernization Project base rate step adjustment?

POSITION: *At a minimum, the ADIT amount for the CMP should be $166.768 million, as opposed to the FPL's as-filed amount of $121.936 million. The adjustment is necessary to account for the nature of the bonus depreciation associated with the project, which is available in its entirety on the day the asset is placed into service for taxes purposes.*

DISCUSSION:

Whether the Commission includes ADIT in the CMP capital structure or as an adjustment to rate base, FPL's as-filed ADIT balance ($121.936 million)[143] for the CMP is understated and should be adjusted. As the Commission has found in previous cases, it is proper to include deferred income taxes related to bonus depreciation allowed under current law in the balance of ADITs.[144] In addition, the Commission has clearly explained that ratepayers are entitled to the benefit associated with deferred tax expenses:

> 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

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143 Ex. 487 at Canaveral Step Increase MFR Schedule B-1, p. 1, col. (9) "Other Rate Base Items"; *see* Ex. 487 at Canaveral Step Increase MFR Schedule B-6, p. 1, ln. 42 "Other Rate Base Items," n.2.

144 *In re: Application for Increase in Water/Wastewater Rates by Aqua Utilities Florida, Inc.*, Docket No. 100330-WS, Order No. PSC-12-0102-FOF-WS, at 88-89 (2012).

> 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.[145]

SFHHA Witness Kollen explains that on Schedule C-22 of the CMP MFRs (Ex. 487) "the Company shows tax depreciation of $432.322 million for federal and state income tax purposes. The federal and state combined income tax rate is 38.58%. Thus, the ADIT should be $166.768 million ($432.322 million times 38.58%)."[146] In other words, FPL's as-filed ADIT balance is $44.832 million less than the correct amount. If FPL's as-filed ADIT amounts for the CMP are not adjusted, then ratepayers will not receive the benefit of the deferred taxes reported by FPL.

ISSUE-130: Is FPL's requested rate base of $821,325,000 ($837,297,000 system) for the Canaveral Modernization Project appropriate?

POSITION: *No. *See* SFHHA's Discussion of Issue No. 134.*

DISCUSSION:

See OPC's Discussion in Issue No. 134.

ISSUE-131: What is the appropriate weighted average cost of capital, including the proper components, amounts and cost rates associated with the capital structure, to calculate the base rate step adjustment for the Canaveral Modernization Project?

POSITION: *The appropriate weighted average cost of capital for the CMP is 7.49%. *See* Ex. 347 at p. 1, Section III (Ex. LK-28). That cost reflects an adjustment to FPL's as-filed CMP capitalization. FPL failed to match the common equity and debt ratios that it used to remove CWIP associated with the CMP from its base rate calculation. The CMP capitalization used to set FPL's step increase should match the capitalization used to remove CMP effects from FPL's base rates. FPL's CMP equity and long-term debt ratios should be 59.58% and 40.42%,

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145 FPL 2010 Rate Order, *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 080677-EI, Order No. PSC-10-0153-FOF-EI, at 104 (2010) (quoting *In re: Petition for Rate Increase by Tampa Elec. Co.*, Docket No. 080317-EI, Order No. PSC-09-0283-FOF-EI (2009)).

146 Tr. 3231:6-9 (Kollen); Ex. 487 at Canaveral Step Increase MFR Schedule C-22, p. 1, cols. (2) and (3) "Current Tax," ln. 10 "Less: Tax Depreciation."

respectively. In addition, the weighted average cost of capital for the CMP should reflect SFHHA's recommended 9.00% ROE.*

DISCUSSION:

The appropriate weighted average cost of capital for the CMP is 7.49%. Ex. 347 at p. 1, Section III, col. "Weighted Avg. Cost" (Ex. LK-28). The proper components, amounts, and cost rates associated with that weighted average cost of capital include $213.806 million of Long Term Debt at a cost rate of 5.26% and $315.214 million of Common Equity at a cost rate of 9.00%. Ex. 347 at p. 1, Section III (Ex. LK-28).

The 7.49% weighted average cost of capital reflects two adjustments to FPL's as-filed for 9.06% weighted average cost of capital for the CMP. The first adjustment relates to the CMP's long term debt and common equity ratios. FPL utilized the capital structure that was "consistent with the analyses submitted in connection with [FPL's] need determination proceeding." Ex. 487 at Canaveral Step Increase MFR Schedule D-1a, p. 1, n.1. However, that capitalization ratio was not used consistently in the remainder of FPL's filing. When removing the long term debt and equity associated with CWIP from the base revenue requirement capitalization, FPL used a capitalization ratio that employed a lower proportion of equity.[147] As stated by SFHHA Witness Kollen, "[t]here is no justification to increase the common equity ratio and reduce the long-term debt ratio for the Canaveral step increase. The common equity and long-term debt ratios should remain the same as those used for the base revenue requirement." Tr. 3232:9-12 (Kollen). In addition, FPL's reported capitalization for the CMP under its base revenue requirement reflects more accurate and up to date information than what was provided during the need determination proceeding. This proceeding's purpose is to set FPL's base rates, and the costs of the CMP are

[147] Tr. 3231:18-3232:4 (Kollen); Ex. 487 at MFR Schedule D-1b, p. 1, col. (5) "Test Year 2013," lns. 15-16 (showing Cape Canaveral specific capital structure of $213.806 million long term debt and $315.214 million common equity).

proposed by FPL to be recovered through such base rates. The CMP is not inherently more risky than FPL's other assets.[148] The second adjustment related to the cost rate for common equity. The cost of equity was adjusted from FPL's as-filed ROE of 11.50% to SFHHA's recommended ROE of 9.00%. Ex. 347 at p. 1, Section III (Ex. LK-28). The justification for that adjustment is provided in detail in SFHHA's Discussion of Issue No. 58.

ISSUE-132: Is FPL's requested net operating loss of $32,092,000 ($32,712,000 system) for the Canaveral Modernization Project appropriate?

POSITION: *SFHHA supports OPC.*

ISSUE-133: Is FPL's requested Net Operating Income Multiplier of 1.63188 for the Canaveral Modernization Project appropriate?

POSITION: *No position.*

ISSUE-134: Is FPL's requested base rate step increase of $173,851,000 for the Canaveral Modernization Project appropriate?

POSITION: *No. FPL's requested base rate step increase should be reduced by at least $26.378 million to reflect reductions of: $6.052 million related to additional ADIT-bonus depreciation; $1.451 million to set the proportion of common equity and long-term debt in the capital structure at the same levels as used in establishing the base revenue requirement; and $18.876 million to set the ROE at 9.0%.*

DISCUSSION:

FPL's requested base rate step increase ("Step 2 Increase") of $173,851,000 for the CMP is inappropriate. As discussed below, the Commission should reduce the requested Step 2 Increase by at least $26.378 million to reflect reductions of $6.052 million related to additional ADIT-bonus depreciation, $1.451 million to set the proportion of common equity and long-term debt in the capital structure at the same levels applicable to the base revenue requirement, and $18.876 million to set the ROE at 9.0%. *See* Tr. 3230:17-3233:15 (Kollen).

[148] FPL's CFO testified that the capital structure for the CMP should not be different than that utilized for FPL overall. Ex. 113 (Dewhurst Deposition Tr. 113:14-25).

FPL should reduce its proposed Step 2 Increase by $6.052 million to account for its understatement of ADIT. FPL includes ADIT as a reduction to the Step 2 Increase rate base, rather than removing ADIT from its proposed capital structure of 60.7% common equity and 39.03% long-term debt at zero cost. Tax depreciation with regard to CMP consists primarily of bonus depreciation, which under applicable legislation, "is available in its entirety the day that the asset is placed in service for tax purposes." Tr. 3231:4-5 (Kollen). *See* 26 U.S.C. § 168(k)(1)(A) (2006). The proper ADIT amount is $166.769 million which equals the combined federal and state income tax rate of 38.5% times the tax depreciation amount of $432.322 million set forth in Ex. 487 at MFR Schedule C-22. Tr. 3231:6-9 (Kollen); Ex. 487 at MFR Schedule C-22. However, FPL reduces the Step 2 Increase rate base only by $121.936 million, which is $44.832 million less than the correct depreciation amount of $166.769 million calculated above. Tr. 3231:8-10 (Kollen); Ex. 487 at MFR Schedule B-1. Therefore, FPL should reduce its proposed Step 2 Increase rate base by $6.052 million which equals FPL's proposed grossed-up rate of return times the $44.832 million shortfall of ADIT. Tr. 3231:11-16 (Kollen).

FPL's argument in opposition to SFHHA's recommended adjustment is without merit. FPL contends that its proposed ADIT amount is not understated based upon a suggestion that Mr. Kollen's testimony on behalf of SFHHA on this issue raises only a timing issue. Tr. 3756:7-8 (Ousdahl); Tr. 3755:17-3756:19 (Ousdahl). However, FPL fails to explain how timing differences undermine the proper ADIT calculation of $166.769 million. FPL further reduces the ADIT amount based on revised plant-in-service amounts. Tr. 3756:19-3757:10 (Ousdahl). The Commission should reject FPL's understated ADIT amount for the reasons stated above.

The Commission also should reduce FPL's proposed Step 2 Increase by $1.451 million to set the common equity and long-term debt at the same proportions applicable to the capital

structure of the base revenue requirement. FPL's proposed capital structure for the Step 2 Increase reflects a higher ratio of higher-cost equity and a lower ratio of lower-cost debt due to FPL's removal of CWIP from the capital structure of the base revenue requirement. Tr. 3231:22-3232:4 (Kollen). *See* Ex. 487 at MFR Schedule D-1b. FPL supports an equity rich capital structure for the Step 2 Increase on grounds that "the capital structure should reflect incremental sources of capital only." Tr. 3754:17-18 (Ousdahl). However, as SFHHA Witness Kollen clarifies, "[t]here is no justification to increase the common equity ratio and reduce the long-term debt ratio for the Canaveral step increase. The common equity and long-term debt ratios should remain the same as those used for the base revenue requirement." Tr. 3232:9-12 (Kollen). FPL therefore should reduce its proposed Step 2 Increase by $1.451 million to reflect the effect of using the same capital structure as that used for the base revenue requirement. Tr. 3232:16-3233:2 (Kollen); Ex. 347. Furthermore, FPL should reduce its proposed Step 2 Increase by $18.876 million to reflect the 9.0% ROE proposed by SFHHA in this proceeding. Tr. 3233:3-15 (Kollen). *See* SFHHA's Discussion of Issue Nos. 51 and 58, *supra*, regarding the proper ROE.

ISSUE-135: What is the appropriate effective date for implementing FPL's requested base rate step increase for the Canaveral Modernization Project?

POSITION: *The effective date for the requested base rate step increase for the CMP, if any, should be the date of commercial operation of the project so long as that date is in the test year. If commercial operation commences after the test year, FPL must make a separate filing to place rates into effect.*

DISCUSSION:

If the Commission approves a base rate step increase for the CMP, the effective date for such increase should be the date of commercial operation of the project so long as that date is in

the 2013 Test Year. If the commercial operation for the CMP occurs beyond the 2013 Test Year, FPL must make a separate filing to place rates into effect.[149]

COST OF SERVICE AND RATE DESIGN ISSUES

ISSUE-136: DROPPED.

ISSUE-137: DROPPED.

ISSUE-138: DROPPED.

ISSUE-139: Should FPL employ a minimum distribution system ("MDS") cost of service methodology to classify and allocate distribution costs; if not, what methodology should be used?

POSITION: *Yes. Certain distribution costs are incurred due to the presence of a customer on the system, regardless of the level of the customer's demand. The MDS methodology recognizes that fact and reflects a classification that allocates such costs to rate classes by tying rate class cost responsibility to rate class cost causation. The NARUC cost allocation manual describes the MDS methodology as one of two methodologies that properly recognize this cost causation/cost responsibility principle.*

DISCUSSION:

Although the Commission previously has rejected the use of the minimum distribution system ("MDS") cost of service methodology to classify and allocate FPL's distribution costs, it has done so based upon: (1) a misperception about the underlying rationale for the MDS methodology and (2) an absence of facts to demonstrate that FPL plans its distribution system in

[149] Based on a "projected test period of the 12 months ending December 31, 2009" (*In re: Petition for Rate Increase by Tampa Elec. Co.*, 2009 Fla. PUC LEXIS 251, at *4 (2009) ("*Tampa*")), the Commission "grant[ed] TECO a step increase in rates, effective January 1, 2010, for the cost of the rail facilities for unloading coal at Big Bend Power Station, provided that the rail facilities are placed into commercial service by December 31, 2009 [(*i.e.*, the last day of the Test Period)]." *Id.* at *21-22. *See* FLA. ADMIN. CODE § 25-30.430(2)(b) ("Each applicant for test year approval shall submit . . . [a] general statement of major plant expansions or changes in operational methods which . . . [w]ill occur *during the requested test year.*" (emphasis added)); *In re: Application for Increase in Water & Wastewater Rates in Lake Cnty. by Lake Util. Servs., Inc.*, 2011 Fla. PUC LEXIS 371, at *47 (2011) ("Based upon the proper components, amounts, and cost rates *associated with the test year ended June 30, 2010*, we approve a weighted average cost of capital of 8.13 percent." (emphasis added)). *See also In re: Application of West Fla. Natural Gas Co. for a Rate Increase*, 1989 Fla. PUC LEXIS 604 (1989) ("A major factor in setting rates to realize a required rate of return is the ability of the test year to accurately represent future conditions. To the extent that the test year does not adequately represent cost levels of the future, it must be restated.").

the manner assumed by the MDS methodology. It is appropriate for the Commission, in the context of this case, to re-examine the MDS methodology based upon a clarification of the rationale for the methodology and documentary evidence that shows that FPL plans its system precisely as the MDS methodology contemplates.

It is important to recognize at the outset that the MDS methodology is a well-accepted method for classifying and allocating the costs of minimum distribution facilities. Public service commissions in at least twenty-one states have explicitly or implicitly accepted the methodology.[150] It also is important to clarify the misperception about the underlying rationale for the MDS methodology. In the last rate case, FPL's witness opposed the MDS system based upon an argument, as characterized by the Commission in its Order, as follows: "zero or minimum load requirements of customers is purely fictitious because no utility builds to serve

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[150] *See, e.g.*, Arkansas Public Service Commission, 246 PUR 4th 228 (2005) (accepting minimum-intercept MDS methodology); Colorado Public Utilities Commission, 2004 Colo. PUC LEXIS 965 (accepting minimum-intercept MDS methodology); Connecticut Department of Public Utility Control, 2009 Conn. PUC LEXIS 106 (2009) (accepting minimum-intercept MDS methodology); Florida Public Service Commission, 2012 Fla. PUC LEXIS 233 (2012) (accepting MDS methodology as part of a settlement) *and* 2002 Fla. PUC LEXIS 606 (2002) (accepting MDS methodology based on four factors); Idaho Public Utilities Commission, 1999 Ida. PUC LEXIS 131 (1999) (accepting a move away from MDS to Basic Customer methodology); Illinois Commerce Commission, 2006 Ill. PUC LEXIS 43 (2006) (expressing willingness to consider MDS methodologies in future rate proceedings); Indiana Utility Regulatory Commission, 289 PUR 4th 9 (2011) (accepting minimum-size MDS methodology); Kentucky Public Service Commission, 2010 Ky. PUC LEXIS 1233 (2010) (accepting minimum-intercept MDS methodology); Maryland Public Service Commission, 2012 Md. PSC LEXIS 40 (2012) (ordering Delmarva to work with Commission Staff to provide zero-intercept and minimum-size MDS methodologies); Minnesota Public Utilities Commission, 2010 Minn. PUC LEXIS 78 (2010) (accepting a zero-intercept MDS methodology and ordering Dakota Electric to use a minimum-size MDS methodology or support the zero-intercept methodology in its next rate case); Montana Public Service Commission, 2011 Mont. PUC LEXIS 40 (2011) (recognizing that the MDS methodology is at issue, but permitting case to settle without specifically addressing the merits of the MDS methodology); New Mexico Public Regulation Commission, 2007 N.M. PUC LEXIS 49 (2007) (accepting minimum-size MDS methodology); New York Public Service Commission, 274 PUR 4th 257 (2009) (accepting minimum-size MDS methodology); Oregon Public Utility Commission, 1998 Ore. PUC LEXIS 246 (1998) (accepting minimum-size MDS methodology and rejecting zero-intercept MDS methodology, but acknowledging that the zero-intercept MDS methodology may be used in limited circumstances); Pennsylvania Public Utility Commission, 58 Pa. PUC 743 (1985) (accepting a minimum-size MDS methodology referred to as the "minimum real world distribution system"); Public Utility Commission of Texas, 1994 Tex. PUC LEXIS 296 (1994) (accepting minimum-size MDS methodology); Virginia State Corporation Commission, 1994 Va. PUC LEXIS 111 (1994) (accepting minimum-size MDS methodology).

zero load."[151] However, contrary to the inference suggested in that passage, the MDS methodology does not contemplate that a utility would build facilities to serve zero load. It contemplates that a minimum set of facilities must be installed to serve each customer simply to connect the customer, regardless of the customer's load. That fact is not in dispute. SFHHA Witness Baron testified that:

> [a]s described in the NARUC Electric Utility Cost Allocation Manual, the underlying argument in support of a customer component is that there is a minimal level of distribution investment necessary to connect a customer to the distribution system (lines, poles, transformers) that is independent of the level of demand of the customer.[152]

And FPL Witness Ender testified as follows:

> Q. you would agree that the MDS Method assumes that a minimum set of facilities, particularly transformers, conductors, and poles, are required to connect customers, right?
>
> A. I would agree that it would be based on a hypothetical minimum size distribution system.
>
> Q. Well, and it's the installation of those particular facilities that I just named; is that right?
>
> A. I believe you name[d] the poles, conductors --
>
> Q. Transformers, conductors, and poles.
>
> A. Right.[153]

That being said, there is a disagreement about whether FPL plans its distribution system based upon an assumption that it will install the foregoing minimum set of facilities for a customer. Mr. Ender claimed that the central planning criteria is kWh load requirements, not

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151 FPL 2010 Rate Order at 171.

152 Tr. 3100:21-3101:1 (Baron).

153 Tr. 4950:14-24 (Ender).

customers. Tr. 4912:12-14, 4951:9-19 (Ender). SFHHA's position is that FPL has established procedures to install these minimum facilities on a customer basis as it hooks up a new customer.

The evidence clearly establishes that SFHHA is right, and the significance of that fact cannot be overstated. Under its methodology, FPL assigns all costs of its distribution system as demand-related, except for Account 369 services and Account 370 meters. Tr. 3099:5-7 (Baron). That methodology significantly distorts FPL's parity analyses, which results in large general service rate classes being assigned substantially higher proposed rate increases than other rate classes. Tr. 3100:4-16 (Baron). Under the MDS methodology, the cost of the minimum facilities are assigned on a customer basis. Tr. 3103:1-4 (Baron). Properly assigning cost responsibility in this manner to align with cost causation: (1) drastically changes the analysis of parity on FPL's system, (2) leads to a significant difference in the assignment of the costs of FPL's distribution system, and (3) results in a reduction in the proposed increase to base rates that would be experienced by large commercial class ratepayers. Tr. 3111, Table 6 (Baron).

The evidence clearly shows that contrary to Mr. Ender's assertion, FPL does in fact size and install transformers on the basis of the number of customers served, and not on the basis of load. The clear implication of that fact is that the poles to which the transformers are connected, as well as the associated conductors, are installed on the same basis. Further, to the extent load is considered by FPL in its planning process for the installation of transformers, it is clear it is the load of individual customers, not system load that would be required to justify FPL's and Mr. Ender's position.

Exhibit 640 contains pages from FPL's engineering guidelines concerning the installation of transformers. Although Mr. Ender testified in his prepared rebuttal testimony that "the central criterion used in planning the FPL distribution system is kW load requirements, not customers

served" (Tr. 4912:13-14 (Ender)), he acknowledged he was not familiar with the document. Tr. 4955:3-5 (Ender). That was a glaring admission given that FPL presented Mr. Ender as its witness to talk about "the central criterion used in planning the FPL distribution system." Tr. 4912:13-14. Further, FPL's engineering guidelines contained in Exhibit 640 unambiguously show that when it comes to the installation of transformers, consistent with the underlying premise of the MDS methodology, it is the number customers served that establishes the sizing of the transformers.

With respect to commercial class customers, FPL's guidelines require different types of transformers to be installed dependent upon whether the commercial class customer is an office building or retail facility versus "critical customer[s]/industrial (hospitals, airports, mega stores etc.)." Ex. 641 at 011843; Tr. 4955:15-4956:6 (Ender). Thus, FPL clearly makes decisions on the sizing of transformers to serve commercial class customers by considering the individual customer that will be served by the transformer.

In the case of installation of transformers for residential customers, FPL's guidelines make even more clear that the installation is based on number of customers served, and the load that is relevant is only the load of the particular customer(s) to be served, not system load. For instance, the guidelines state:

> [w]hen describing a distribution system, it seems natural to discuss the various components in the order in which power flows, starting at the substation and proceeding to feeders, then to laterals, then to transformers, secondaries, and services. ***In designing a system, however, it is necessary to start with the customers*** and work back to the substation. The purpose of the whole system is to serve the customers adequately and reliably; therefore, ***the configuration of the lines and hardware are determined by the customers*** - where they are, ***how much load they have***, and what kind of service they provide.

The customers' loads determine the secondary design and the size and placement of transformers.[154]

Consistent with that overview of the planning process, the guidelines provide for different types of installations for full electric homes versus partial electric homes. Ex. 641 at 011825. The guidelines also set forth standard loads based upon the size of air-conditioning units in the residences of individual customers. Ex. 641 at 011830. The guidelines then set forth tables that provide specific directions on the size of a transformer to install based upon the number of customers the transformer will serve. Ex. 641 at 011832 and 011839. For instance, Table III at page 011832 describes four different size transformers and requires the installation of a particular-sized transformer based upon the number of full electric homes to be served, along with the size of the air conditioning units in the residences. The guidelines also set forth examples to make clear what size of transformer to install given the number of customers. For example, under Table III at page 011832, the guidelines pose a question concerning what size transformer is required for four homes with four ton air conditioning units. Similarly, under Table III at page 011839, the guidelines pose a question concerning what size transformer is required for five customers with three ton air conditioning units. Table II in the guidelines sets forth standard for loads diversified for one through 20 customers. Ex. 641 at 011831. And page 011837 of the guidelines sets forth the coincident factor to be determined relative to overhead line design, transformers, secondary and services based upon the number of customers on a transformer.

Accordingly, FPL's own planning guidelines, a document Mr. Ender did not consult before offering his testimony, directly, and unambiguously refute his claim that FPL does not plan its distribution system based on customers. The planning guidelines in fact show that a

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[154] Ex. 641 at 011824 (emphasis added).

determination of the number of customers to be served is at the center of FPL's analysis in determining what type of transformer and associated minimum facilities to install. Therefore, the Commission should require FPL to utilize the MDS methodology in classifying and allocating costs of the minimum distribution facilities, *i.e.*, transformers, conductors and poles.

FPL has not done an MDS study. Tr. 4965:12-21 (Ender); Ex. 642. Therefore, the Commission should adopt the proxy for such a study set forth in Mr. Baron's testimony on behalf of SFHHA. Tr. 3108:23-3112:6 (Baron). The Commission also should direct FPL to utilize the MDS methodology when it next files to increase base rates.

ISSUE-140: What is the appropriate cost of service methodology to be used to allocate production costs to the rate classes

POSITION: *Summer month reserve margin requirements are the binding constraint for planning FPL's system. Customer class demands during off-peak fall and spring months do not cause FPL to add new generation capacity to the system. Accordingly, a summer coincident peak methodology is the appropriate methodology for allocating production costs. It assigns cost responsibility to rate classes based upon each rate classes' contribution to the need for additional generation capacity to meet the summer reserve margin.*

DISCUSSION:

In FPL's last rate case, the Commission acknowledged that SFHHA Witness Baron made a persuasive argument in favor of a summer CP methodology,[155] which allocates production costs based upon each customer class' contribution to the summer peak. Tr. 1448:10-15 (Pollock); Tr. 3112:8-14 (Baron). Nonetheless, the Commission opted to retain the 12 CP and 1/13th methodology.[156] The 12 CP and 1/13th methodology allocates approximately 92% of the cost of production plant based upon each rate class' contribution to the 12 monthly coincident peaks and approximately 8% based on energy. Tr. 2098:7-11 (Ender). It is now time for the

[155] *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 080677-EI, Order No. PSC-10-0153-FOF-EI, at p. 171 (2010).

[156] *In re: Petition for Increase in Rates by Fla. Power & Light Co.*, Docket No. 080677-EI, Order No. PSC-10-0153-FOF-EI, at p. 171 (2010).

Commission to take the next step and adopt the summer CP methodology. The evidence developed in this case in support of the summer CP methodology is overwhelming. There is literally no support for the 12 CP and 1/13th methodology.

There is no dispute among the parties (including FPL) that FPL is a summer peaking utility, *i.e.*, it typically experiences its annual coincident peak during a month between June and August.[157] Consistent with that observation, the evidence shows that the highest annual coincident peak on FPL's system for 2008, 2009 and 2011 occurred during a summer month, and FPL's forecasts are that the highest coincident peaks for 2012 and 2013 will occur in August of each of those years.[158]

Further, FPL admitted that it has been adding capacity exclusively to satisfy its summer reserve margin. Tr. 4920:18-19 (Ender). It explained in the Canaveral/Riviera need determination that:

> FPL's need for power, *i.e.*, the ***amount of resources needed, is driven by peak demand forecast because FPL's needs are currently determined by the summer reserve margin criteria.*** While FPL uses both a reserve margin and a loss-of-load probability criteria, ***the reserve margin criteria driven by peak load forecast has established the magnitude of the resource[] need for many years.***[159]

The testimony on this point is consistent among the parties.[160] The parties also agree that FPL is not adding capacity to meet demand in any other month. Tr. 1447:10-1448:2 (Pollock). Further, the evidence shows that while FPL gets close to having only a 20% summer reserve margin in about 2020, at no time through 2021 does FPL get even remotely close to having only

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157 Tr. 689:14-23 (Morley); 1445:8-13 (Pollock).

158 Tr. 687:5-689:13 (Morley); Ex. 505. The highest coincident peak in 2010 occurred in January, during abnormal weather that produced the third coldest day on record dating back to 1948. Tr. 688:4-14 (Morley).

159 Tr. 700:2-5, 13-17 (Morley); Ex. 509 at 8:10-14 (emphasis added).

160 *See* Tr. 700:2-5, 13-17 (Morley); Ex. 509 at 8:10-14. *See also* Tr. 1447:15-17 (Pollock); Tr. 3147:25-3148:2, 3172:3-18 (Baron).

a 20% winter reserve margin. Tr. 695:5-697:12 (Morley); Ex. 508 at 000984. In fact, FPL's winter reserve margin ranges from 26.9% to 42.5% between now and 2021. Ex. 508 at 000984.

As a result, because the testimony of all parties, including FPL, shows that FPL is adding generating capacity exclusively to meet its summer reserve margin which is driven by FPL's summer month coincident peak, it is clear that the summer CP methodology should be adopted because it allocates production costs based upon each customer class' contribution to the summer peak. In other words, the summer CP methodology properly assigns cost responsibility for production plant to rate classes based upon cost causation. Tr. 3114:16-19 (Baron); Tr. 1448:21-1449:5 (Pollock).

Furthermore, the arguments in favor of retention of the 12 CP and 1/13 methodology are unavailing. FPL raises three arguments in opposition to the summer CP methodology. It first argues that the summer CP method fails to recognize a critical component that influences the type of generating facility FPL will add. Tr. 4920:7-9 (Ender). To support that claim, FPL claims that its "resource planning utilizes two other reliability criteria which are important and could trigger the need for additional capacity." Tr. 4920:19-21 (Ender). One criterion is the winter reserve margin; the other is the loss-of-load probability criterion. FPL explains that the loss-of-load probability criterion "considers daily peak loads year round." Tr. 4921:5 (Ender).

However, the evidence refutes FPL's claims concerning the significance of these criteria. As shown above, so long as FPL can meet its summer reserve margin, it easily can satisfy its winter reserve margin as well. Similarly, once it adds capacity to serve the summer peak, which is the highest daily peak on the system, by definition it can satisfy all other daily peak loads year round. Perhaps for that reason, FPL's own testimony in the Cape Canaveral/Riviera need determination cited above shows that the loss-of-load probability criterion will not establish "*the*

magnitude of the resources needed for many years." Furthermore, whether it decides to add a combustion turbine, a combined-cycle or any other type of unit, that determination does not drive in any way the decision whether to add capacity in the first place. Thus, assigning cost responsibility based upon a factor that does not cause FPL to incur costs is inconsistent with the most basic tenet of rate making, *i.e.,* that cost responsibility should follow cost causation.

FPL's other arguments in favor of the 12 CP and 1/13th methodology fare no better. Contrary to FPL's claim, the 12 CP and 1/13th methodology does not send a better price signal than the summer CP methodology. In fact, if the Commission's goal is to reduce summer peak demand, the summer CP methodology has the potential to achieve that goal by providing a price tied to summer peak causation, a relationship that is wholly missing with regard to the 12 CP and 1/13th methodology. Tr. 1448:10-20 (Pollock), 3114:9-11 (Baron). FPL's argument that the summer CP method assigns cost responsibility based upon only one data point, contribution to the summer peak, also is in error. By comparison, the 12 CP and 1/13th methodology assigns cost responsibility based upon only 12 data points (the 12-monthly peaks), eleven of which are irrelevant, as well as on a 13th data point, energy, that also has nothing to do with FPL decisions to add capacity.

Finally, FPL points out that under the summer CP method, certain small rate classes that do not turn on lights until evening hours in the summer, would bare no costs of production plant. Those rate classes, *i.e.*, OL-1 and SL-1, account for a total of $85.5 million out of FPL's total class operating revenue of $4.4 billion (less than 2%, as shown in Ex. 487 at MFR Schedule E-8). To reject the summer CP methodology based upon the effect of that methodology on those rates classes would truly be a case of the tail wagging the dog.

Moreover, to the extent that FPL constructs generation and transmission plant to meet the summer peak demand on the system (which it does), there is simply no lighting load contributing to this requirement to add capacity. While the summer CP cost allocation method then effectively grants a free ride to the OL and SL rate classes for the cost of production plant, they are not responsible for the generation and capacity costs on the system. In other words, no matter how much OL and SL lighting load is added (within reason), FPL can ignore the added load with regard to its determination of whether it has sufficient generation capacity. That begs the question: why should a price signal be sent to customers in the OL-1 and SL-1 rate classes telling them to get off the "peak" to avoid capacity additions when they are not even taking service at the peak?

The OL-1 and SL-1 rate classes are allocated other FPL costs, but they are likely being overcharged today for generation fixed costs for which they have no responsibility. Thus, from a cost of service standpoint, the OL-1 and SL-1 rate classes should not be allocated generation fixed costs.

That being said, if the Commission wants to set OL-1 and SL-1 rates with a minimum cost responsibility for generation fixed costs, effectively establishing a policy that they should be allocated some minimal cost for these facilities, SFHHA would not object (on a policy basis). However, this is not a reason for the Commission to reject what otherwise is the appropriate cost allocation methodology given the undisputed evidence that FPL is adding generating capacity exclusively to meet its summer coincident peak load.

ISSUE-141: What is the appropriate cost of service methodology to be used to allocate transmission plant-related costs to the rate classes?

POSITION: *Transmission plant-related costs should be allocated to rate classes based upon a 100 percent demand basis. The appropriate demand allocator is the summer coincident peak methodology; however, at a minimum, transmission plant-related costs should be allocated using 12 CP.*

DISCUSSION:

FIPUG Witness Pollock testified that, "transmission plant is sized to meet system peak demands." Tr. 1420:5 (Pollock). That testimony is not disputed. It also is not disputed that the cost of transmission plant should be allocated on a 100% basis as suggested by Mr. Pollock. *See* Tr. 1421:10-11 (Pollock). In fact, FPL Witness Ender acknowledged that the demand-only 12 CP method proposed by Mr. Pollock is reasonable. Tr. 4930:5-6 (Ender).

However, SFHHA believes it would be far more appropriate to adopt the summer CP method SFHHA recommended for allocation of production plant as the allocation method for allocating the cost of transmission plant as well. Adoption of the summer CP method would be consistent with Mr. Pollock's uncontested recognition that "transmission plant is sized to meet system peak demands." Tr. 1420:5 (Pollock). In that regard, because the transmission system has to be designed to transmit the system peak load, the peak loads that occur in other months are irrelevant. And because FPL is a summer peaking utility, Tr. 689:14-23 (Morley); Tr. 1445:8-13 (Pollock), the system is designed to handle that projected summer peak. As a result, the use of the summer CP method would align cost responsibility with cost causation, *i.e.*, each customer class would pay for the cost of transmission facilities based upon its contribution to the summer peak.

Accordingly, SFHHA submits that the Commission should adopt the summer CP method for allocation of the costs of transmission plant. As an alternative, SFHHA would not oppose the 12 CP method proposed by Mr. Pollock. However, the Commission should reject the use of FPL's 12 CP and 1/13th methodology. Again, that methodology allocates costs approximately 92% based upon demand and 8% based on energy. However, there is no energy component in

the context of transmission. Accordingly, there is no, nor can there be any, support for FPL's 12 CP and 1/13th methodology for allocation of the costs of transmission plant.

ISSUE-142: Has FPL properly allocated costs to the rate classes?

POSITION: *No. First, FPL improperly replaces the actual 3-year January CP and GNCP residential class load factors with alternate values and improperly performs a "reconciliation" test to determine whether monthly GNCP demand is less than or equal to monthly NCP demand. Second, FPL improperly uses a 12 CP and 1/13th average demand allocation methodology, rather than a summer 1 CP demand allocation methodology. Third, FPL's methodology to allocate distribution plant costs to retail rate classes fails to recognize a customer component of primary or secondary lines, poles, or transformers by classifying these costs as demand related. Fourth, FPL improperly developed target revenue increases for each rate class and applied the 1.5 times limitation policy to the target revenue increases for each rate class based on "total revenues," not "base and miscellaneous revenues," which are the rates at issue in this case. The appropriate adjustments and appropriate revenue increases for each rate class are set forth in Exhibit 314.*

DISCUSSION:

FPL failed to present evidence to carry it burden of proof to demonstrate that it properly has allocated costs among rate classes. Its allocation of the costs of distribution plant is improper. *See* SFHHA's Discussion of Issue No. 139. Its allocation of production costs is improper. *See* SFHHA's Discussion of Issue No. 140. Its allocation of the costs of transmission plant is improper. *See* SFHHA's Discussion of Issue No. 141.

In addition to the misallocation of costs that arises form FPL's use of improper allocation methodology, FPL has presented no evidence concerning a critical element of the model it used to develop its allocation of costs among rate classes. As a result, FPL failed to carry its burden to demonstrate the reasonableness of its class cost of service study.

To begin, there are two serious problems with respect to FPL's demand allocation factors. One of those problems concerns the manner in which FPL developed the factors. After it developed the 2013 rate class coincident peak ("CP"), group non-coincident peak ("GNCP") and non-coincident peak ("NCP") demands, FPL performed a test to check whether the monthly

GNCP demand was less than or equal to the monthly NCP demand. Tr. 3091:8-10 (Baron). The NCP demand represents the sum of the maximum demand of each customer in a particular rate class in a calendar month regardless of the hour in which the maximum demand occurred. Tr. 3091:10-12 (Baron). The GNCP demand represents the highest aggregate demand of all customers in a particular rate class in a single hour during a month. Tr. 3091:14-16 (Baron). Therefore, unless each individual customer in a rate class had its highest hourly demand in the identical hour during the month, the GNCP for that rate class always would be less than the NCP for the class. Tr. 3091:16-18 (Baron). Furthermore, the rate class CP demand, which is the GNCP coincident with the monthly peak hour on FPL's system, can never exceed the monthly GNCP.

SFHHA Witness Baron identified a problem with FPL's calculations of CP, GNCP and NCP demands which were based on sample load research data for classes such as the residential rate class. Tr. 3091:20-3092:2 (Baron). He pointed out that under FPL's methodology, if the GNCP exceeded the NCP in a month, FPL set the GNCP equal to the NCP and then spread the excess to all other rate classes. Similarly, if the CP exceeded the adjusted GNCP, FPL set the CP equal to the GNCP and spread that excess to all other rate classes. Tr. 3092:2-5 (Baron). As a last step, FPL summed the "adjusted CP" demands across rate classes and compared them to its monthly system peak forecast. Any differences were then spread only to rate classes that were not adjusted in the NCP/GNCP/CP reconciliation process. Tr. 3092:5-8 (Baron).

The problem Mr. Baron identified was that under FPL's methodology, the residential adjusted CP demand exceeded the residential GNCP demand which is impossible, and therefore the residential class failed the CP/GNCP/NCP reconciliation test. Tr. 3094:7-10 (Baron). As a result, FPL capped the January CP for the residential class at its GNCP and spread the excess to

all other rate classes other than GSCU-1 and SL-2 (which also had failed the reconciliation test). This resulted in a downward adjustment of 3.95% from the original demand for the residential class based upon the load research and an upward adjustment for the GSLDT-2 rate class of 13.94%. Tr. 3094:11-19 (Baron). The upward adjustment for the GSLDT-2 rate class in turn resulted in a significant up-ward adjustment to the demand allocation factor for the GSLDT-2 rate class and its cost responsibility according to FPL's cost of service study. Tr. 3094:19-21 (Baron). The upward adjustment was problematic because the GSLDT-2 and other large general service rate classes' load data were based upon 100% actual metered data, whereas the residential class and other smaller rate classes' data were based upon load research sample data. Tr. 3094:21-3095:1 (Baron).

In other words, FPL adjusted and distorted actual metered data for commercial class customers based upon proxy or estimated data for the residential class. To correct that anomalous result, Mr. Baron recommended that it would be more appropriate and valid to rely on the sample load research data (the 3-year load factors) to develop the rate class CP demands, which then could be uniformly adjusted to tie to FPL's system peak demand forecast. The resulting CP demands then would not need to be further adjusted in any reconciliation process; rather, the GNCP and NCP demands only would have to be adjusted to insure they are internally consistent. Tr. 3095:9-14 (Baron).

In its rebuttal testimony, FPL indicated that it did not disagree in principle with Mr. Baron's recommendation (Tr. 4910:5-9 (Ender)), and indicated during cross-examination that FPL would adopt the recommendation in its next rate case.[161]

[161] Tr.4948:13-19, 4949:15-19, 4977:17-4979:2 (Ender).

There is no reason to wait until FPL's next rate case to make the adjustment Mr. Baron recommended. On its face, FPL's reconciliation method is seriously flawed and produced unreasonable results that inappropriately increase cost responsibility for the GSLDT-2 rate class. It is necessary to correct the mis-allocation of revenue responsibly now in order for FPL's rates to be fair, just and reasonable.

Moreover, there are many other problems that result in FPL assigning revenue increases to rate schedules in a flawed and unreasonable manner that over-allocates cost to large commercial class customers.

One such problem concerns an adjustment FPL made to the average January 3-year load factor data for the residential class. It did not discuss that adjustment in its direct testimony, but it did in fact adjust the residential class' actual CP and GNCP load factors. Tr. 3089:14-16 (Baron). It did not adjust the load factors for any other rate class.[162] FPL's adjustment increased the residential rate class' January CP demand load factor from 43.64% to 48.39%, which increased the share of costs borne by all other rate classes. Tr. 3090:6-7 (Baron).

FPL does not deny any of the foregoing facts. It claims however that it adjusted the January load factor data for the residential class for the purpose of normalizing the effects of the abnormal weather experienced in January 2010. Tr. 4909:19-21 (Ender); *see also* Tr. 2210:1-2211:13 (Deaton). But FPL's adjustment is improper because its use of three-year average load factor data already is intended to address and mitigate the effects of abnormal weather. Adjusting the weather only for the residential class distorts the results. Further, to the extent the adjustment is intended to provide for weather-normalization on a forecast basis, the adjustment attempts to accomplish an impossibility. As FPL's own Director of Load Forecasting stated:

[162] Tr. 3090:2-3 (Baron), Tr. 4982:6-13.

"Econometric models are not developed at the rate class levels, therefore weather-normalized sales by rate class cannot be computed. Regardless, the impact on each rate class of weather-normalized sales would not be known until actuals are available." Ex. 586. FPL's adjustment plainly is at odds with Dr. Morley's position that it would be impossible, and hence inappropriate, to attempt to forecast sales by rate class based upon a contrived weather-normalized basis.

Furthermore, FPL's purported justification for adjusting the load factor of the residential class, while not adjusting the load factors of other classes, is illogical and inconsistent with customer usage on its system. FPL attempted to show that the abnormal weather of January 2010, which caused the peak hour to occur at 8:00 AM, would have affected only the residential class because businesses allegedly would not have been open at that time. Tr. 3144:6-3145:3 (Baron). However, that "justification" ignores the fact that commercial customers, such as hospitals, operate 24 hours per day, and would be affected equally as, perhaps even more so than, residential customers by the effects of abnormal weather, regardless of the hour at which the weather occurred. Tr. 3168:5-3169:9 (Baron). In particular, FPL's "justification" ignores that whether a commercial enterprise is open or not for business at a particular hour, the heating equipment is responsive to the weather even if no one is there. Tr. 3143:24-3145:13, 3166:22-3167:1 (Baron). Furthermore, heating large commercial facilities may not be accomplished as efficiently as heating a small residence -something FPL apparently did not study. Accordingly, even if it were appropriate to adjust the forecast by rate class to normalize for weather (which Dr. Morley's testimony shows is impossible), FPL's rationale for adjusting the load factor only of the residential class is unduly discriminatory as it fails to recognize that customers under all rate schedules are impacted by abnormal weather.

In addition to these problems with FPL's cost of service study that inappropriately allocates costs among rate classes based upon inappropriate adjustments to the allocation demand factor, FPL also failed to carry its burden of proof to demonstrate the reasonableness of its proposed allocation of costs among rate schedules because it failed to present any evidence concerning critical elements of the model it used to derive its class cost of service study.

The model that is at the heart of FPL's rate filing is the Consolidated Financial Model. *See* Ex. 142. FPL's various business units' forecasts are inputs to the model. Ex. 142; Tr. 1198:3-15 (Barrett). The Consolidated Financial Model uses those inputs to produce balance sheet and income statement data that are then used to produce FPL's class cost of service study. Tr. 1198:16-1199:19 (Barrett). FPL Witness Barrett agreed to the obvious -- the Consolidated Financial Model is a critical element in developing FPC's rate case filing. Tr. 1199:23-1200:1 (Barrett). He also agreed that the accuracy of the balance sheet and income statement is tied to the accuracy of the Consolidated Financial Model. Tr. 1200:2-11 (Barrett).

A basic premise in any rate case is that the regulated utility has the burden of proof with respect to every element of its proposed rates, including the burden to demonstrate the reasonableness of its allocation of costs among its different rate classes.[163] Where a utility bases its allocation of costs among rate classes upon a computer model, it has the burden to establish by substantial evidence that the computer model is reasonable and produces reliable results.[164]

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[163] *See* n.21, *supra.*

[164] *See In re: Petition for Increase in Rates by Progress Energy Fla., Inc.*, 2010 Fla. PUC LEXIS 199, at *414 (2010) ("A Commission finding based on competent, substantial evidence is not limited to a particular method in arriving at what constitutes such evidence. Nothing requires the Commission to accept self-serving benchmarking data at the expense of more compelling methods of proof."); *In re: Petition of Fla. Power & Light Co. for Approval of "Tax Savings" Refund for 1988*, 1991 Fla. PUC LEXIS 1043, at *5 (1991) ("The burden of proof remains at all times with the utility. If the utility does not establish, through competent substantial evidence, that its expenditures were reasonable, prudent, and utility-related, it is not entitled to relief even if its case is unchallenged"); *see also Wash. Utils. & Transp. Comm'n v. PacifiCorp*, 2011 Wash. UTC LEXIS 342, at *45 (2011) ("As we stated in Order 06, '[u]ltimately, the Company has the responsibility to develop a computer model to determine NPC and the burden to demonstrate that the model is well-

Typically utilities provide intervenors a working model so that they can test it using different assumptions and inputs.[165]

However, notwithstanding that the Consolidated Financial Model is at the very heart of its filing, FPL neither made a working copy of it available to intervenors, nor did FPL produce evidence to demonstrate the reliability of the model. Importantly, the Consolidated Financial Model was not developed by FPL. It was developed by an unaffiliated third-party - International Utilities, Inc. Tr. 1202:5-15 (Barrett). SFHHA sought to obtain a working copy of the Consolidated Financial Model. Ex. 520. However, FPL advised that to do so would require SFHHA to spend $400,000 to $500,000, excluding the cost of training. Ex. 520. FPL also advised that the process to obtain the model and training would take six to eight months to execute. Ex. 520. Despite FPL's attempt to suggest that the six-to eight month time estimate provided in the interrogatory response did not really mean six to eight months (Tr. 1204:3-9 (Barrett)), clearly it was impossible for financial as well as for timing issues for intervenors to get a working copy of the Consolidated Financial Model in a timeframe that allowed them to test the model in advance of the evidentiary hearing. Moreover, FPL failed to present a witness from International Utilities, Inc. who could testify to try to establish the reliability of the Consolidated

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designed.' In other words, the Company has the burden of proof." (footnote omitted)); *Application for Review of Alt. Regulation Plan*, 2002 Ill. PUC LEXIS 1219, *193 (2002) ("We note that should AI decide at some time in the future to file a new rate rebalancing petition, it again will have the burden of proof, including demonstrating to this Commission that its cost study model, whatever study it may be, is compliant with our rules."); *In Re: Ark. Power & Light Co. of Little Rock*, 1986 Mo. PSC LEXIS 30, at *20 (1986) ("It is the Company that filed the case and utilized the model for fuel expense that cannot be verified by the Staff. It is the Company that has the burden of proof. That burden of proof cannot be met by assurances that all of the calculations were proper."); *In Re: Petition of Ind. & Mich. Elec. Co.*, 1982 Ind. PUC LEXIS 15, at *69-70 (1982) ("We are especially convinced by the testimony of IEC's witness Gale Hafer that Petitioner did not sustain its burden of proof with regard to the appropriateness of applying the suggested econometric models to Petitioner's electric rate design").

165 *See, e.g., In re: Petition for Determination of Need for Glades Power Park Units 1 and 2 Elec. Power Plants in Glades Cnty.*, 2007 Fla. PUC LEXIS 342, at *220-222 (2007) (denying the utility's objection to providing "information in electronic spreadsheet format with all formulas and links intact" to the extent such objection prevents OPC from "recomputing the allocation factors used to allocate costs" so as to replicate the allocation methodology "off site").

Financial Model, if in fact it is reliable. As a result, FPL failed to carry its burden of demonstrating that the Consolidated Financial Model FPL used to allocate costs among rate classes is a sound, reliable model sufficient to support FPL's allocation of costs among rate classes. Rather, what FPL has produced effectively is a black box, the reliability of which is a complete unknown.

Finally, FPL improperly developed target revenue increases for each rate class by misapplying the Commission's gradualism policy that limits the rate increase of any class to 1.5 times the average increase. In that regard, FPL applied the 1.5 times limitation to the target revenue increases for each rate class based upon "total revenues," not "base and miscellaneous revenues." In FPL's last rate case, the Commission did include clause revenues in its application of the 1.5 times adjustment. Tr. 3119:17-18 (Baron). However, as Mr. Baron explained, the increases that resulted in the last rate case associated with clause revenues were relatively small, whereas they would be large in this case. Tr. 3138:8-19 (Baron). Furthermore, FPL's proposal in this case is inconsistent with the Commission's order in the last rate case regarding application of the 1.5 times policy. Again, in the last rate case, the Commission included clause revenues in its application of the 1.5 times adjustment, but here, FPL calculates the 1.5 times limitation based upon total revenues, which include unbilled revenues and add backs from the CILC and CDR credits. Tr. 3170:5-12 (Baron). This produces another instance in which FPL proposes to allocate amounts to large commercial class ratepayers in a disproportionate way that is inconsistent with Commission policy.

For all these reasons, it is clear that FPL has not properly allocated costs among rate classes.

ISSUE-143: Is FPL's proposed allocation of the Cape Canaveral Modernization step increase reasonable?

POSITION: *No. FPL's proposed allocation of the Cape Canaveral Modernization step increase should be allocated based upon a Summer CP methodology. Additionally, FPL failed to properly apply the Commission's gradualism policy*

DISCUSSION:

The reasons that support utilization of the summer CP method for allocating the costs of production plant in general are identical to the reasons that support utilization of the summer CP method for allocating the costs of the Cape Canaveral Modernization step increase. In other words, regardless whether an issue concerns the allocation to rate classes of the cost of existing, or new, generating plants, the principle that should be determinative of the issue is that cost responsibility should follow cost causation. As a result, the costs of the step increase should be allocated to rate classes based upon each rate class' contribution to the summer coincident peak. SFHHA's response to Issue No. 140 sets forth a full discussion that supports utilization of the summer CP method for allocating costs to rate classes consistent with that principle. *See* SFHHA's Discussion of Issue No. 140.

Further, FPL proposes to allocate the Step 2 Increase on the basis of "other production revenue requirements" developed at FPL's proposed equal rates of return. For the same reasons applicable to the Step 1 Increase discussed under Issue No. 142, *supra*, SFHHA recommends that FPL properly apply the Commission's gradualism policy that limits the increase for any rate class to 1.5 times the average increase calculated on base revenues. *See* Tr. 3125:9-19 (Baron); Ex. 314.

ISSUE-144: How should the change in revenue requirement be allocated among the customer classes?

POSITION: *FPL's revenue requirement, as determined in this case, should be allocated among customer classes consistent with SFHHA's recommendations as set forth in Ex. 314 at Schedule D (Ex. SJB-8). That exhibit incorporates: (1) the corrections to the demand allocators that are required for the reasons explained at pages 11 through 21 of Mr. Baron's testimony on behalf of SFHHA; (2) the MDS methodology for classifying certain distribution costs; and (3) a Summer CP

methodology. Ex. 314 at Schedules A through C (Ex. SJB-8) set forth alternatives that more appropriately would allocate FPL's revenue requirement if the Commission were to adopt one or more, but not all of, Mr. Baron's recommendations. At a minimum, it is necessary to adopt Schedule A of Ex. 314 (Ex. SJB-8) to correct FPL's error in using "total revenues" rather than base revenues: (1) to allocate its Step 1 proposed increase and (2) for purposes of determining compliance with the Commission's policy that limits an increase for any rate class to a maximum of the average retail increase.*

DISCUSSION:

SFHHA's Discussions of Issue Nos. 11, 139, 140 and 141 demonstrate that FPL's projected revenues from sales of electricity by rate class are inappropriate and that its methods of allocating costs to rate classes are inconsistent with the way it operates its system, as well as with basic ratemaking principles. SFHHA relies upon those discussions to demonstrate, as well, that any change in the revenue requirement the Commission authorizes here should be allocated based upon the methodologies SFHHA has proposed. In particular, and as discussed in Issue Nos. 11, 139, 140 and 141, SFHHA recommends that the Commission require FPL to correct its allocation of the revenue requirement among rate classes to:

(1) correct the anomalous result of FPL's methodology for developing a demand allocation factor under which FPL adjusted residential CP demand such that it exceeded GNCP (which is impossible), spread the excess CP over GNCP to other rate classes and in doing so, ignored actual load data for rate classes that are 100% metered. The correction SFHHA recommends, which FPL agrees is reasonable, is to rely on sample load research data (the 3-year load factors) to develop the rate class CP demands, which then could be uniformly adjusted to tie to FPL's system peak demand forecast. The resulting CP demands would then not be further adjusted in any reconciliation process; rather, the GNCP and NCP demands should be adjusted to insure that they are internally consistent;[166]

[166] *See* SFHHA's Discussion of Issue No. 142 at pp. 124-127.

(2) reject FPL's adjustment to the January 3-year load factor for the residential class, which arbitrarily increased the residential rate class' January CP demand load factor from 43.64% to 48.39%, which increased the share of costs borne by all other rate classes;[167]

(3) correct FPL's allocation of the cost of distribution plant by requiring the use of the MDS methodology for classifying, and allocating the costs of, poles, conductors and transformers;[168]

(4) correct FPL's allocation of the cost of production plant by requiring FPL to utilize the summer CP methodology;[169]

(5) correct FPL's allocation of the cost of transmission plant by requiring FPL to utilize the summer CP methodology;[170] and

(6) require compliance with Commission's policy that limits an increase for any rate class to a maximum of the average retail increase by calculating the "1.5 times" maximum increase based on base revenues and miscellaneous revenues only - not "total revenues" as set forth in FPL's filing.[171]

ISSUE-145: Should FPL's current time-of-use residential rate be closed to new customers, effective January 1, 2013?

POSITION: *No position.*

ISSUE-146: Should the Commission approve FPL's new Residential Time-of-Use Rider?

POSITION: *No position.*

ISSUE-147: Should FPL's proposal to credit the fuel charge for lighting customers who are required to turn off outside lights during turtle nesting season be approved?

POSITION: *No position.*

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167 *See* SFHHA's Discussion of Issue No. 142 at pp. 127-128.

168 *See* SFHHA's Discussion of Issue No. 139.

169 *See* SFHHA's Discussion of Issue No. 140.

170 *See* SFHHA's Discussion of Issue No. 141.

171 *See* SFHHA's Discussion of Issue No. 142 at p. 131.

ISSUE-148: Should FPL's proposed change to the late payment charge be approved?

POSITION: *No position.*

ISSUE-149: DROPPED.

ISSUE-150: DROPPED.

ISSUE-151: DROPPED.

ISSUE-152: DROPPED.

ISSUE-153: DROPPED.

ISSUE-154: DROPPED.

ISSUE-155: DROPPED.

ISSUE-156: DROPPED.

ISSUE-157: Should FPL's proposed change to the temporary construction service rate be approved?

POSITION: *No position.*

ISSUE-158: Should FPL's proposed change to the Returned Payment Charge be approved?

POSITION: *No position.*

ISSUE-159: DROPPED.

ISSUE-160: DROPPED.

ISSUE-161: DROPPED.

ISSUE-162: DROPPED.

ISSUE-163: DROPPED.

ISSUE-164: DROPPED.

ISSUE-165: What is the appropriate monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider? (8.820)

POSITION: *No position.*

ISSUE-166: Has FPL correctly quantified the incentive payments associated with the Commercial/Industrial Load Control (CILC) classes?

POSITION: *No. FPL incorrectly estimated incentive payments by inaccurately calculating the cost differential between firm and non-firm service. As a result, FPL understated incentive payments to rate schedules CILC-1T and CILC-1D, and overstated incentive payments to the CILC-1G rate schedule.*

DISCUSSION:

FPL incorrectly quantified the incentive payments associated with CILC classes. As FIPUG Witness Pollack explained, CILC incentive payments are the cost differentials in base rate revenues (excluding customer chargers) between the non-firm CILC rate and the corresponding firm rate. Tr. 1413:4-6 (Pollock); *see* Tr. 1412:1-1415:15 (Pollock). FPL's class COS study assumes that all customer classes receive firm service, even though this cannot be true for CILC customers because CILC service is non-firm. To account for this erroneous assumption, FPL restates the CILC revenues based on a historical analysis of incentive payments assigned to each CILC rate class. However, "[t]he problem with FPL's analysis is that the restated revenues do not reflect the revenues that each CILC class would generate under the otherwise applicable firm rate." Tr. 1414:15-17 (Pollock). Mr. Pollock demonstrated that FPL's class COS study understated incentive payments to the CILC-1T and CILC-1D rate schedules and overstated incentive payments to the CILC-1G rate schedule. Tr. 1414:17-1415:4 (Pollock); Ex. 282. Although FPL Witness Deaton challenged Mr. Pollock's calculation of firm and non-firm cost differentials, Tr. 5008:8-19 (Deaton), Ms. Deaton conceded that "the differential between the proposed CILC rates and the firm general service demand rates does not exactly equal the forecasted CILC incentives . . . ." Tr. 5008:21-22 (Deaton). As a result of understating the CILC-1T and CILC-1D incentive payments, FPL's class COS study understates the earned returns from the CILC-1T and CILC-1D rate schedules, which in turn, overstates the CILC-1T and CILC-1D revenue requirements. Tr. 1415:7-10 (Pollock). Similarly, as a result of overstating the CILC-1G incentive payments, FPL's class COS study overstates the earned

returns from the CILC-1G rate schedule, which in turn, understates the CILC-1G revenue requirement. Tr. 1415:10 (Pollock). In this manner, FPL incorrectly quantified the incentive payments associated with the CILC rate classes.

ISSUE-167: Should the CILC rate be reopened?

POSITION: *Yes. FPL's recent analysis in Docket No. 10055-EG of its Demand Side Management Plan demonstrates that Rider CDR is cost-effective. As discussed in the testimony of Jeffry Pollock, it therefore follows that the CILC rate must be cost-effective as well. As a result, there is no reason not to open up the CILC rate. Further, it is necessary to open up the CILC rate to eliminate discrimination relative to Rider CDR.*

DISCUSSION:

The Commission should reopen the CILC rate to new customers. Tr. 1440:6-15 (Pollock). CILC service is a valuable service because it is a non-firm service that "allows FP&L to maintain reliable service because interruptible customers can be instantaneously shut off during a capacity shortfall so the lights can stay on for the firm customers." Tr. 1439:25-1440:3 (Pollock). In 1996, the Commission closed the CILC rate to new customers because additional CILC service was not cost-effective at the time. Tr. 1431:8-11 (Pollock). However, circumstances have changed dramatically since 1996 and the CILC rate is now cost-effective. Tr. 1431:13-1432:2 (Pollock). Since 1996, equipment costs for new generation capacity have increased significantly. Tr. 1431:19-20 (Pollock). As FIPUG Witness Pollock explained, the avoided cost used to establish capacity payments is $930/kW, compared to the installed cost of combustion turbines of $123/kW. Tr. 1431:20-1432:1 (Pollock). Thus, "[r]ising equipment costs mean that additional CILC load is now very cost-effective." Tr. 1432:1-2 (Pollock).

Furthermore, the evidence in this proceeding supports reopening the CILC rate.[172] For instance, FPL pays customers a lesser credit for service under CILC than under the Rider CDR,

[172] *See* Tr. 1434:1-1435:27 (Pollock); Ex. 292 (Ex. JP-13); Ex. 293 (Ex. JP-14).

thereby demonstrating that the CILC rate is cost-effective. In Docket No. 10055-EG, FPL's analysis of its Demand Side Management ("DSM") Plan demonstrated that the Rider CDR is cost-effective based on the current $4.68/kW monthly credit FPL pays Rider CDR customers. Tr. 1434:21-1435:3 (Pollock); Ex. 293 (Ex. JP-14). Mr. Pollock reasonably assumed that CILC service is cost-effective if the Rider CDR is also cost-effective because the services are very similar. For instance, under both services, (i) FPL curtails load under similar circumstances, such as during generation and transmission capacity shortages, (ii) FPL curtails load rather than the customer, and (iii) customers must install load control equipment and provide FPL with direct control over their loads. Tr. 1435:6-27 (Pollock). Reopening the CILC rate will eliminate discrimination between CILC and Rider CDR service by allowing an increase of CILC payments to at least the same level as the Rider CDR. Tr. 1435:3-5 (Pollock). As Mr. Pollock stated, "there is no reason not to have one rate available [Rider CDR] and not the other [CILC rate]." Tr. 1453:14-15 (Pollock).

FPL opposes reopening the CILC rate on grounds that the Commission closed the CILC rate by order issued on March 10, 1999 and that the Commission should address any request to reopen the CILC rate in a DSM docket rather than a base rate docket. Tr. 5007:8-5008:3 (Deaton). However, as Mr. Pollock explained, "it's more appropriate to adjust all rates in a rate case because you have the opportunity to look at the bigger picture and examine the effect on customers. A rate case does that. It brings together everything . . . ." Tr. 1455:6-11 (Pollock). Moreover, the Commission is in no way prohibited from considering reopening the CILC rate to new customers, especially given that the evidence regarding the cost-effectiveness of the Rider CDR, discussed in the preceding paragraph, *supra*, demonstrates that reopening the CILC rate is appropriate. *See* Tr. 1434:1-19 (Pollock); Ex. 292; Tr. 1441:1-3 (Pollock). The Commission

therefore should reopen the CILC rate to new customers and thus expand the reliability benefits that CILC service provides to the FPL system. Tr. 1453:1-15 (Pollock).

ISSUE-168: Is FPL's proposed design of the demand and non-fuel energy charges for the CILC rate appropriate?

POSITION: *No. FPL proposes an on-peak energy charge increase in excess of 320% for CILC-1D because of the protocols it adopted for the CILC-1D rate design. Specifically, the Firm On-peak demand charge, the Load Control On-peak demand charge, the Max Demand charge and off-peak non-fuel energy charge are all set at unit cost based on proposed revenue levels at equal rate of return. All additional revenue is recovered from the On-peak energy charge. Exhibit 315 sets forth a revenue neutral alternative based on setting non-fuel energy charges of CILC-1D at unit cost, which is $0.00700/kWh, and then uniformly increasing all three of the CILC-1D demand charges by an equal percentage to meet the revenue target.*

DISCUSSION:

FPL's proposed rate design of the demand and non-fuel energy charges for the CILC-1D rate is inappropriate because the rate design increases the On-peak energy charge for CILC-1D in excess of 320%. FPL's rate design imposes the "residual revenue requirement" for the CILC-1D rate class on *only* the On-peak non-fuel energy charge, even though the evidence establishes that "82.5% [of the revenue requirement] is demand related . . . ." Tr. 3129:13 (Baron). FPL proposes to set the Firm On-peak demand charge, the Load Control On-peak demand charge, the Max Demand charge, and the Off-peak non-fuel energy charge at unit costs based upon its proposed revenue levels at an equal rate of return, and to recover all additional revenue from the On-peak energy charge. In this manner, FPL's rate design increases the On-peak energy charge for CILC-1D rate in excess of 320%. Tr. 3127:4-21 (Baron).

FPL defends its proposed CILC-1D rate design on grounds that it is following prior Commission orders regarding rate design methodologies. Tr. 5004:6-5006:6 (Deaton). However, the Commission must assess the reasonableness of the CILC-1D rate design *in this proceeding*. Imposing an extreme 320% increase on one rate element of the CILC-1D rate

produces unreasonable increases to some customers relative to the overall CILC-1D increase. Placing the residual revenue requirement on demand charges is more appropriate because customers are more price responsive to energy charges than to demand charges. Demand charges are the least price sensitive portion of the rate. Therefore, all else being equal, placing the residual revenue requirement on the demand charges of the CILC-1D rate would preserve the cost of service in the CILC-1D rate design to the extent possible. Tr. 3127:4-21 (Baron).

SFHHA therefore proposes a revenue neutral alternative CILC-1D rate design which produces the same revenue level as FPL's proposed rate increase. Specifically, SFHHA proposes to set the CILC-1D non-fuel energy charges at the unit cost of $0.00700/kWh and uniformly increase the Firm On-peak demand charge, the Load Control On-peak demand charge, and the Max Demand charge by an equal percentage to meet the revenue target. Based on FPL's proposed overall 22.2% increase for the CILC-1D rate class, SFHHA's revenue neutral alternative rate design will increase all three CILC-1D demand charges by 29.5% while producing the same revenue level as FPL's proposed rate increase. Thus, SFHHA's proposed rate design will have no impact on other rate classes or schedules. Tr. 3127:23-3128:14 (Baron); Ex. 315.

ISSUE-169: Should the Commercial/Industrial Demand Reduction Credit Rider (CDR) credit be increased?

POSITION: *Yes. The credit should be increased to $12.07 per kw. As shown in Mr. Pollock's testimony, the current credit is based upon the costs of new generation as determined in 2004. The costs of generation have increased since that time. The credit therefore should be increased to reflect those cost increases. Raising the credit to $12.07 per kw would recognize the increased costs, and Rider CDR would remain economic at that level.*

DISCUSSION:

The Rider CDR credit should be increased to $12.07/kW. As FIPUG Witness Pollock explained, the current Rider CDR credit is based upon the cost of new generation capacity in

2004. However, the cost of new generation capacity has increased significantly since 2004. Therefore, an increase in the Rider CDR credit would more closely reflect the current cost of new generation capacity. Furthermore, the evidence in this proceeding demonstrates that such an increase would be cost-effective. For instance, as discussed in Issue No. 167, the DSM Plan in Docket No. 10055-EG demonstrated that the Rider CDR is cost-effective based on the current $4.68/kW monthly credit FPL pays Rider CDR customers, which produces a 3.1 benefit-to-cost ratio. If FPL sets the benefit-to-cost ratio at 1.2, the Rider CDR credit would increase by 158% to $12.07/kW. The Rider CDR credit thus would remain cost-effective at $12.07/kW. Tr. 1436:2-11 (Pollock); Ex. 293. FPL opposes increasing the Rider CDR credit to $12.07/kW on the same non-substantive and flawed grounds that it opposes reopening the CILC rate, as discussed in Issue No. 167. *See* Tr. 5007:8-5008:3 (Deaton). FPL's opposition has no merit and should be rejected.

ISSUE-170: Should CILC and CDR credits be allocated to non-firm loads?

POSITION: *SFHHA supports FIPUG.*

ISSUE-171: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

POSITION: *No position.*

ISSUE-172: What is the appropriate method of designing time of use rates for FPL?

POSITION: *No position.*

ISSUE-173: What are the appropriate customer charges for January 1, 2013?

POSITION: *No position.*

ISSUE-174: OBJECTION: ***Is the proposed residential RS-1 monthly customer charge of $7.00 unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

POSITION: *No position.*

ISSUE-175: DROPPED.

ISSUE-176: DROPPED.

ISSUE-177: DROPPED.

ISSUE-178: DROPPED.

ISSUE-179: DROPPED.

ISSUE-180: DROPPED.

ISSUE-181: DROPPED.

ISSUE-182: DROPPED.

ISSUE-183: What are the appropriate demand charges for January 1, 2013?

POSITION: *The appropriate demand charges for rate CILC-1D should be based on the methodology as set forth in Exhibit 315. No position at this time regarding other rate schedules.*

DISCUSSION:

The appropriate demand charges for rate CILC-1D should be based on the methodology as set forth in Exhibit 315. *See* Tr. 3127:1-3128:14 (Baron); Ex. 315. *See* Issue No. 168, *supra.*

ISSUE-184: What are the appropriate energy charges for January 1, 2013?

POSITION: *The appropriate energy charges for rate CILC-1D should be based on the methodology as set forth in Mr. Baron's Ex. 315 (Ex. SJB-9). No position at this time regarding other rate schedules.*

DISCUSSION:

The appropriate energy charges for rate CILC-1D should be based on the methodology as set forth in Mr. Baron's Exhibit SJB-9. *See* Tr. 3127:1-3128:14 (Baron); Ex. 315. *See* Issue No. 168, *supra.*

ISSUE-185: What are the appropriate lighting rate charges for January 1, 2013?

POSITION: *No position.*

ISSUE-186: What is the appropriate effective date for FPL's revised rates and charges, prior to a Base Rate Step adjustment, if any, associated with the Canaveral Modernization project?

POSITION: *January 1, 2013*

DISCUSSION:

The appropriate effective date for FPL's revised rates and charges, prior to a Base Rate Step adjustment, if any, associated with the CMP is January 1, 2013.

ISSUE-187: What are the appropriate charges after the Canaveral Modernization Project comes on line?

POSITION: *The Canaveral increases should be recovered from the GSLD(T) and CILC rate classes in both demand and energy charges (*see* Tr. 3130:7-12 (Baron Direct)) based on FPL's classification of Canaveral revenue requirements between demand and energy in its cost of service study. FPL's proposal to recover 100% of the Canaveral increase from these rate classes in energy charges is inconsistent with FPL's need claim to convert the Canaveral facility and could lead to future over-collections.*

DISCUSSION:

If the Commission approves FPL's proposed base rate step increase ("Step 2 Increase") of $173,851,000 for the CMP, FPL should recover the amount of the Step 2 Increase allocated to the GSLDT-1, -2, -3, and CILC rate classes based on the same 82.5% (demand) - 17.5% (energy) allocation methodology that FPL uses to allocate the Step 2 Increase to rate classes. FPL proposes to recover 100% of the Step 2 Increase allocated to the GSLDT-1, -2, -3, and CILC rate classes from energy charges. FPL's proposed 100% energy-related rate design is inconsistent with the methodology FPL uses to allocate the Step 2 Increase to rate classes. For instance, in its class COS study, FPL developed the "Other Production Revenue Requirements" to allocate the $173,851,000 Step 2 Increase to rate classes (*i.e.*, the 82.5% (demand) - 17.5% (energy) allocation methodology).[173]

FPL has provide no justifiable reason to deviate from its 82.5% (demand) - 17.5% (energy) allocation methodology in designing rates for the GSLDT-1, -2, -3, and CILC rate

[173] Tr. 3128:16-3129:13 (Baron); Ex. 317; Ex. 487 at MFR E-6b, Attachment No. 2 of 2.

classes. FPL's proposal to recover 100% of the Step 2 Increase from energy charges fails to account for "the fact that over 80% of the Canaveral revenue requirements are demand related," not energy related. Tr. 3128:19-20 (Baron). FPL asserts that its one-sided 100% energy-related rate design is administratively efficient, benefits low load factor customers (Tr. 3129:15-3130:5 (Baron)), and matches the costs of the Step 2 Increase with benefits from fuel savings. Tr. 2165:22-23 (Deaton); Tr. 5009:14-17 (Deaton). However, as FIPUG Witness Pollock explained, FPL's proposed one-sided rate design (1) causes high load-factor customers such as SFHHA's members to receive "larger base rate increases than the corresponding class average," (2) "send[s] the wrong price signals and discourage[s] load management," and (3) "create[s] revenue (and income) instability." Tr. 1428:9-12 (Pollock). These outcomes are not consistent with cost-based ratemaking. Tr. 1428:12-13 (Pollock). FPL's approach also is inconsistent with its acknowledgement that its costs less on a KWh basis to serve a high load factor customer than a low load factor customer. Tr. 2115:7-11 (Ender).

SFHHA therefore recommends that for GSLDT-1, -2, -3, and CILC rate classes, FPL should recover 82.5% of the Step 2 Increase from the on-peak demand charge and 17.5% of the Step 2 Increase from on- and off-peak energy charges. For non-time of day general service rate classes, FPL should recover 82.5% of the Step 2 Increase from the demand charge and 17.5% of the Step 2 Increase from the non-fuel energy charge of each rate class. Tr. 3130:7-12 (Baron). This rate design is consistent with the methodology FPL uses to allocate the $173,851,000 Step 2 Increase to the GSLDT-1, -2, -3, and CILC rate classes, and is thus consistent with FPL's need claim to convert the CMP facility. It also will prevent future over-collections of revenues from the GSLDT-1, -2, -3, and CILC rate classes.

OTHER ISSUES

ISSUE-188: DROPPED.

ISSUE-189: DROPPED.

ISSUE-190: DROPPED.

ISSUE-191: DROPPED.

ISSUE-192: 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.*

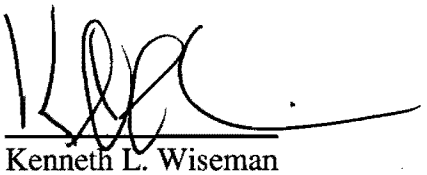
ISSUE-193: Should this docket be closed?

POSITION: *No position.*

APPENDIX A

FLORIDA POWER AND LIGHT
REVENUE REQUIREMENT MINIMUM REDUCTIONS RECOMMENDED BY SFHHA
DOCKET NO. 120015-EI
TEST YEAR ENDING DECEMBER 31, 2013
($ MILLIONS)

	SFHHA's Recommended Reductions
Base Rate Change per FP&L Filing	**$ 516.521**
Rate Base Adjustments:	
Modify Cash Working Capital from Balance Sheet to Lead/Lag	(16.177)
Modify Nuclear Maintenance Reserve from Prepaid to Postpaid	1.763
Eliminate Unamortized Rate Case Expense	(0.500)
Reduce CWIP In Rate Base	(26.052)
Remove Other Accounts Receivable Not Necessary for Providing Utility Service	(9.180)
Operating Income Adjustments:	
Adjust Other Operating Revenues to Utilize 10-Year Weather History	(16.148)
Normalize Nuclear Maintenance Outage Expense	(15.183)
Modify Nuclear Maintenance Expense from Prepaid to Postpaid	(37.402)
Reduce Vegetation Management Expense	(9.447)
Reflect Projected Net AMI Deployment Savings	(23.731)
Reduce O&M for Employee Count Reductions	(24.637)
Reduce Amortization of Rate Case Expense	(0.520)
Reduce Pole Inspection Expense	(2.740)
Reduce O&M for Affiliate Transaction Issues	(33.944)
Generation Overhaul Expense Normalization	(9.021)
Adjust Payroll Tax Expense Related to Payroll Reductions	(1.581)
Capital Structure and Rate of Return Adjustments:	
Adjust ADIT for Rate Base Adjustments	(0.394)
Set Return on Equity at 9.0%	(385.913)
Reflect Reduction in Long Term Debt Rate to 5.18%	(4.856)
Total Minimum Recommended Adjustments	**(615.662)**
Maximum Recommendation for Base Rate Change	**($99.141)**



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CERTIFICATE OF SERVICE
DOCKET NO. 120015-EI

I HEREBY CERTIFY that a true and correct copy of **SFHHA'S POST-HEARING BRIEF** has been furnished by electronic mail and U.S. mail on this 21st day of September, 2012 to the following:

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