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Subject: FEA Post-Hearing Statement of Issues and Positions

Attachments: FEA Post Hearing 120015.pdf

FEA Post
earing 120015.p

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

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b. This filing is made in Docket No. 120015-EI.

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

c. The document is filed on behalf of Federal Executive Agencies.

d. There are a total of 43 pages.

e. The attached document is FEA's Post-Hearing Statement of Issues and Positions

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No: 120015-EI

Filed: September 21, 2012

POST-HEARING STATEMENT OF ISSUES AND POSITIONS

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PRELIMINARY STATEMENT

The Federal Executive Agencies, through its undersigned counsel and pursuant to the Prehearing Order establishing post-hearing procedures in this docket, Order No. PSC-12-0428-PHO-EI, issued August 17, 2012, hereby files its Post-Hearing Brief and Post-Hearing Statement of Issues and Positions.

Throughout this brief, references to participants in this docket will be abbreviated as follows: Federal Executive Agencies (FEA), Florida Power & Light Company (FPL); The Office of Public Counsel (OPC); Florida Retail Federation (FRF); Florida Industrial Power Users Group (FIPUG); and The South Florida Hospital and Healthcare Association (SFHHA). References to the transcript are designated (Tr. __).

FEA has filed testimony on return on equity and proposed capital structure that will provide Florida Power & Light (FPL) with an opportunity to realize cash flow financial coverages and balance sheet strength that conservatively support FPL's current bond rating. To this end FEA supports a 9.25% ROE sponsored by FEA witness Mr. Michael Gorman. The FEA recommendation represents fair compensation for FPL's investment risk, and will preserve the Company's financial integrity and credit standing, while finding an equitable balance between customers and shareholders, recognizing the reality of the economic hardships of FPL's customers.

FEA believes the Company's proposal to remove the Cape Canaveral costs from the 2013 test year to reflect the uncertainty of when it will be place in-service is reasonable. However, it is not clear that the Company has fully removed all costs associated with the Cape Canaveral project, and should be required to fully disclose the items that are included in construction work in progress (CWIP). To the extent any of the CWIP items include any component of the Capt Canaveral project costs, then the base-rate rate base should be adjusted to remove all Cape Canaveral costs.

FEA filed testimony outlining three shortcomings of FPL's embedded cost of service study, all related to distribution costs, and recommends that each of the shortcomings be corrected. FEA also recommends that the rate modernization approach used in revenue allocation be modified. Lastly, FEA holds a firm position that FPL has disproportionately and unfairly allocated revenues to some of the rate classes servicing FEA customers in this proceeding (especially CILC-1T) in contravention of Commission's gradualism policy to limit individual rate class increases to no more than 1.5 times the average for all rate classes. This "rate shock" will have an enormous adverse impact on FEA customers within the CILC-1T rate class including Patrick AFB, NASA, and Cape Canaveral and should not be approved by this Commission. FEA positions are based on materials filed by the parties.

FEDERAL EXECUTIVE AGENCIES'
POST-HEARING STATEMENT OF ISSUES AND POSITIONS

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: *FEA adopts the position of OPC.*

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: *FEA takes no position on this issue.*

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?

POSITION: *FEA takes no position on this issue.*

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?

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

ISSUE 6: DROPPED

ISSUE 7: DROPPED

ISSUE 8: DROPPED

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

POSITION: *FEA adopts the position of FIPUG.*

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: *FEA adopts the position of 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: *FEA adopts the position of SFHHA.*

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: *FEA adopts the position of SFHHA.*

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

POSITION: *FEA adopts the position of SFHHA.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

ISSUE 19: Whether FPL's request for 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?

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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: *FEA adopts the position of SFHHA.*

ISSUE 26: If the answer to Issue 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: *FEA adopts the position of SFHHA.*

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. The Commission show require FPL to demonstrate that the CWIP balances that it seeks to include in test year rate base excludes items associated with the Cape Canaveral project.*

DISCUSSION:

FPL should be disallowed from including CWIP items associated with the Canaveral Modernization Project in its test year rate base. Any such inclusions would result in a windfall for FPL in excess of the $173 million step increase which will occur on the in-service date of the project. Before FPL's requested CWIP amount is approved, the company should be required to demonstrate that any CWIP balances that it seeks to include in its test year rate base exclude items associated with the Cape Canaveral Modernization Project. If it is determined that CWIP items do include costs associated with the Canaveral Modernization Project, then the base-rate rate base should be adjusted to remove such costs.

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA adopts the position of OPC.*

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: *FEA adopts the position of OPC.*

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? (Fallout Issue)

POSITION: *FEA adopts the position of FIPUG.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA adopts the position of OPC.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

ISSUE 39: Has FPL adhered to the Commission's policy of including net clause over-recoveries and excluding net clause under-recoveries in its calculation of working capital? If not, what adjustments should be made?

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA adopts the position of SFHHA.*

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

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA proposes an equity ratio for ratemaking and capital structure purposes (including investor capital and deferred taxes) of 44.08%. This equity ratio includes modification to FPL's "Pro Rata" adjustments. Specifically, FEA proposes to allocate deferred taxes based on FPL's total plant investment. This equity ratio is within the 40% to 50% required to support an investment grade bond rating for a utility such as FPL with an "Excellent" business profile score and an "Intermediate" to "Aggressive" financial profile. This equity ratio is also more in line with the capital structures that regulatory commissions have commonly awarded to electric utilities throughout the country.*

DISCUSSION:

FEA's adjustments to FPL's capital structure provides a more direct assignment of accumulated deferred income taxes ("ADIT") to regulated operations. A proper assignment of accumulated deferred income taxes is important because ADIT reduces the utility's cost of capital and offset its claimed revenue deficiency in this proceeding. Customers should receive the full benefit of ADIT because these amounts are the result of customers paying income tax expenses in rates which temporarily exceed the actual income tax the utility pays to government taxing authorities. While the utility holds its accumulated over-recovery of income taxes, it has a zero-cost source of capital used to support its utility rate base investments.

FEA's proposed Pro Rata adjustment to the capital structure corrects the allocation of accumulated deferred income taxes and assigns them directly to the customers who have paid these excess tax payments to FPL. FPL proposes a Pro Rata capital structure adjustment that synchronizes the amount of capital structure to the amount of retail rate base. In doing this, FPL's Pro Rata adjustment scales down all its capital items including deferred income taxes based on the weight of total capital. However, FEA witness Gorman observed that doing this understates the amount of deferred income taxes used to support retail rate base.[1] Hence, he modified the Pro Rata adjustment to allocate deferred income taxes on net plant investment rather than total capital, and then scaled down investor capital based on total capital weights. By

[1] Tr. 3298:11-3299:4.

doing this, FEA witness Gorman recommends a greater allocation of deferred income taxes to retail regulated operations.[2] This results in a greater weight of deferred income taxes and lower weight of common equity that support retail rate base. Mr. Gorman proposed a capital structure supporting rate base to include a common equity ratio of 44.08% rather the Company's proposed common equity ratio of 46.03%.[3]

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. The 25 basis point performance adder proposed by FPL should be rejected by the Commission. The performance adder is contingent upon FPL's residential electric bill being the lowest in comparison to Florida's other electric utilities. This would create an incentive for FPL to shift costs to non-residential customers in order to keep residential bills low. This inflation of non-residential bills would serve to curtail economic development in Florida by harming some of the state's most significant economic contributors such as military installations, industrial customers and hospitals.*

DISCUSSION:

The Company's proposal for a 25 basis point return on equity adder to reward it for having rates lower than other Florida utilities is without merit and should be rejected. FEA has already pointed out that the rate of return included in FPL's rate filing reflects a common equity ratio which mitigates financial risk, and provides fair compensation based on investment in a low-risk regulated utility company. Because FPL already receives fair compensation, it is reasonable to expect that it will undertake all reasonable efforts to mitigate its cost increases and provide low-cost utility service. Therefore, FPL's 25 basis point performance adder is not justified.

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[2] Id.

[3] Tr. 3299:15-25. See also Tr. 1897:18 [FPL witness Dewhurst Direct testimony at p. 40:18] and Ex. 211 [FPL MFR Schedule D-1a line 4 column 8].

Further, the record does not show that FPL's management deserves full credit and an ROE reward for FPL's competitive position. FPL's cost structure may support low rates in Florida due to factors that are not attributable to current management decisions or performance. Hence, current management should not be rewarded for cost reductions that it did not help to realize. For example, a recent Commission Order directed FPL management to abandon a clean-coal generating unit, and switch to natural gas.[4] This resulted in a lower-cost generation resource for Florida customers. This change was directed by the Commission, not FPL management. Hence, FPL management should not receive the benefit of this Commission direction for it to seek a lower-cost resource in providing service. Further, the record shows that legacy costs, and other factors unrelated to excellence in utility management contribute to FPL's cost structure being lower than other Florida utilities. Hence, there is no direct evidence that FPL's current management is responsible for the level of its cost structure supporting low-cost rates in Florida. Rather, the cost structure can be impacted by regulatory decisions, legacy costs from previous FPL management success, and other factors that are outside the control of current FPL management. An ROE performance bonus to FPL's management has not been justified and should be rejected.

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: * The appropriate ROE for FPL is 9.25%, which is the midpoint of FEA witness Gorman's recommendation of 9.10% to 9.40%. Additionally, FPL improperly attributed data from SFHHA witness Baudino's and FEA witness Gorman's testimony regarding their Constant Growth DCF Models in conducting its own

[4] Ex. 632; Tr. 4799:16-19

revised (and flawed) DCF analysis to rebut SFHHA's and FEA's ROE testimony. The fatal errors of FPL in responding to the FEA and SFHHA ROE recommendations invalidates FPL's arguments against FEA and SFHHA with respect to determining a fair and reasonable ROE in this proceeding.*

DISCUSSION:

Four parties presented return on equity evidence in this proceeding as outlined in the table below.

Comparison of ROE Recommendations

Method	FPL Avera[1] (1)	FEA Gorman[2] (2)	SFHHA Baudino[3] (3)	OPC Woolridge[4] (4)
DCF:				
Constant Growth DCF	9.6% - 10.3%	9.29%	8.72% - 8.96%	8.70%
Sustainable Growth DCF	9.90%	9.73%	N/A	N/A
Multi-Stage Growth DCF	N/A	9.18%	N/A	N/A
Non-Utility DCF:				
Constant Growth DCF	11.5% - 12.3%			
Sustainable Growth DCF	12.20%			
Risk Premium	9.6% - 10.4%	8.9% - 9.3%	N/A	N/A
CAPM:		8.32%	8.06% - 8.65%	7.70%
Current Bond Yield	10.4% - 11.2%			
Projected Bond Yield	10.8% - 11.6%			
Expected Earnings	10.5% - 12.0%	N/A	N/A	N/A
Recommended ROE	**11.25% - 11.50%**	**9.25%**	**9.00%**	**8.50% - 9.00%**

[1]Exhibit WEA-13, Page 1 of 1. (Ex. 205)
[2]Gorman Direct at 38, 43, and 48. (Tr. 3317, 3322, 3327)
[3]Exhibit RAB-4, Page 2 of 2. (Ex. 297)
[4]Exhibit JRW-10, Page 1 of 6 (Ex 248); Exhibit JRW-11, Page 1 of 11 (Ex. 249).

Mr. Gorman conducted DCF studies using various methods of estimating growth for the companies included in his proxy group. The growth rate is a very difficult component of the DCF model to measure, because it is necessary to capture investors' expectations which cannot be easily observed or measured. Hence, Mr. Gorman used analysts' three- to five-year growth rate projections, a sustainable growth rate model, and a multi-growth stage model. Each of these

DCF models was based on available market information likely to influence investors' decision-making. Based on these three methodologies, Mr. Gorman estimated a DCF return of 9.40%. [5]

Mr. Gorman also conducted risk premium analysis based on equity risk premiums over prevailing Treasury bonds and utility bonds. Mr. Gorman estimated equity risk premiums over time, and used a risk assessment to gauge an appropriate equity risk premium in the current market. This analysis indicated a fair return on equity in the range of 8.90% to 9.30%, with a midpoint of 9.10%, for FPL.[6]

Mr. Gorman also conducted a Capital Asset Pricing Model, using Treasury bonds as a risk-free rate, a *Value Line* beta, and two measures of the market risk premium. This analysis produced a fair return on equity estimate for FPL in this case of 8.32%.[7]

Mr. Gorman recommended a return on equity for FPL in the range of 9.1% to 9.4%, and point estimate of 9.25%.[8] Mr. Gorman's return on equity recommendation is fairly similar to those proposed by SFHHA witness Baudino, and Office of Public Counsel witness Dr. Woolridge.[9]

FPL Witnesses' Return on Equity is Excessive, Unreasonable and Severely Flawed

As shown in the table above, FPL is recommending a return on equity of 11.25%, excluding its return on equity adder. In significant contrast, other parties in this case recommend returns on equity in the range of 8.50% to 9.50%. The overwhelming evidence in this case is that the Company's return on equity estimates are substantially above current capital market costs. Indeed, the three non-utility witnesses are recommending returns on equity which are remarkably similar to one another, and reflect reasonable and balanced valuations of securities

[5] Tr. 3317:16-24.
[6] Tr. 3321:18-3322:18.
[7] Tr. 3327:20-23.
[8] TR.3328:5-16.
[9] *See* Ex. 297 and Ex. 249.

and assessments of FPL's current capital market costs. Indeed, reasonable adjustments to FPL's own witnesses' cost of equity models would also support a return on equity of 9.5% or less in this proceeding.[10]

FPL witness Avera used a DCF on a utility group and non-utility group, as well as a risk premium and CAPM study to support his return on equity recommendation in this proceeding.[11] The evidence shows that his utility DCF and risk premium estimates overstate current capital market costs, and his non-utility group is not a risk comparable group appropriate for estimating FPL's return on equity in this case.

FEA witness Gorman explained that FPL witness Avera's use of a non-utility group is not a reliable risk proxy for FPL, because the companies included in non-regulated businesses are perceived by the market as different risk and not consistent with the market's overall assessment of utilities' low investment risk.[12] FPL witness Dr. Avera asserted that these companies are comparable in risk largely because they had similar bond ratings and thus are risk comparable to FPL. However, FEA witness Gorman explained that this risk factor is not reliable enough to conclude that the market perceives non-regulated companies as a similar investment risk proxy to FPL.[13] As an example, he observed that there is a significant difference between the market's value of "Aaa" corporate bonds and U.S. Treasury government bonds even though they have the same "Aaa" Moody's bond rating. Mr. Gorman pointed out that a current U.S. Treasury bond yield of 3.1% compares to an "Aaa" corporate utility bond yield of approximately 3.9%.[14] Despite having the same bond rating, the market requires an 80 basis point higher return to invest in corporate high quality utility bonds than to invest in U.S. Treasury securities. This

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[10] Tr. 3332:9-3333:19.
[11] Tr. 1661:4-1667:18.
[12] Tr. 3335:5-15. (*See also* FPL witness Avera's direct testimony at Tr.1666:11-1667:18)
[13] Tr. 3335:17-3336:20
[14] Tr. 3336:4-8.

clearly indicates that despite having the same bond rating, these two securities are not reasonable risk proxies for one another based on market valuations and return factors. The simple risk measures used by Dr. Avera to select non-regulated companies as risk proxies to FPL are simply not reliable because the market can make significant differences in valuations and return requirements for companies with the same bond rating.

Mr. Gorman also explained that FPL witness Avera's DCF return estimates were largely based on growth rates which resulted in excessive DCF return estimates. A DCF model requires a growth rate that can be sustained indefinitely. Dr. Avera relied on growth rate projections over the next three to five years. While these growth rates may be appropriate for the next three to five years, they are not appropriate over the long-term. The three- to five-year projected growth rate will slow over time to a lower sustainable level. Mr. Gorman explained that a utility's long-term growth cannot exceed its service area economy.[15] A utility grows its earnings through growth of investments that are tied to demands placed on the utility from its service area. Hence, a utility cannot grow faster than its service area over an indefinite period of time. Using more reasonable growth rate estimates for the utility company, would significantly reduce Dr. Avera's DCF return estimates. Indeed, with these adjustments, Dr. Avera's DCF outlooks for his proxy group would support a return on equity of approximately 9.5% for FPL in this case.[16]

Dr. Avera's risk premium is overstated because he overstated the market risk premiums, and relied only on projected interest rates.[17] Mr. Gorman demonstrated that projected interest rates are not reliable because analysts' projections almost always overstate the actual interest rates that prevail at the time of the forecast. Hence, Dr. Avera should have considered or used only current observable interest rates, but at a minimum should have considered both current and

[15] Tr. 3337:14-16.
[16] Tr. 3338:1-3; Ex 369 (MPG -20).
[17] Tr. 3338:18-3339:21.

projected interest rates. Further, Dr. Avera's risk premium is overstated because he relied on an inverse relationship of interest rates and equity risk premiums to gauge an appropriate equity risk premium in today's marketplace.[18] This is a flawed methodology because equity risk premium spreads change based on a multitude of market factors, not simply changes in interest rates.[19] Hence, a more appropriate gauge of a current equity risk premium is a comparison or measure of the current market's perception of risk of equity securities versus debt securities.[20] While this risk assessment does include variations in interest rates, there are other factors which impact equity risk premiums that were ignored by Dr. Avera. These current observable interest rates and a more detailed assessment of risk underlying current market equity risk premiums would indicate a fair return on equity for FPL at this time of 8.6%.[21]

Dr. Avera's CAPM is overstated because his market risk premium was overstated. His market risk premium was flawed because he used his flawed DCF model to estimate a market DCF return. Again, Dr. Avera measured a market risk premium using a DCF return on the market. However, the growth rate he used in that market DCF return reflects growth rates far too high to be sustainable indefinitely. This resulted in inflation and overstatement of a reasonable market risk premium estimate.[22]

Dr. Avera's CAPM return estimate is also unreasonably high because he has overstated reasonable estimates of market risk premiums used to develop the current market cost of capital for FPL. Reflecting more reasonable estimates of a market risk premium, rather than those

[18] Tr. 3343:9-17.
[19] Tr. 3343:9-17.
[20] Tr. 3343:19-3344:22.
[21] Tr. 3345:1-10.
[22] Id.

produced by Dr. Avera which reflect overstated and unreliable estimates, Dr. Avera's own CAPM models would support a return on equity of 9% or less for FPL in this proceeding.[23]

Dr. Avera also includes a 25 basis point performance adder in his proposed return on equity adjustment. This increased his proposed return from 11.25% up to 11.50%. FEA has already explained why this 25 basis point adder is unreasonable and should be rejected. Reasonable modifications of Dr. Avera's return on equity models would support a current estimate of FPL's market cost of equity in this case to be 9.5% or less.[24] This adjusted return on equity based on the Company's own studies supports the same findings for other witnesses in this case as outlined in the table above. For all these reasons, the Commission should award FPL a return on equity of no higher than 9.5% in this case. The most reasonable estimate of FPL's current cost of equity is FEA's recommended 9.25%.

FPL Witnesses' Rebuttal Testimony of FEA Witness Gorman's and SFHHA Witness Baudino's Constant Growth Discounted Cash Flow (DCF) Model is in Error.

By his own admission, Dr. Avera improperly attributed data from SFHHA witness Baudino's and FEA witness Gorman's testimony regarding their Constant Growth DCF Models in conducting his own revised DCF analysis to rebut their testimony.[25] Specifically, Dr Avera's Rebuttal Ex. WEA-24 used incorrect data from Mr. Baudino's direct testimony Ex. RAB-4 (Case Ex. 297).[26] Additionally Dr Avera's rebuttal testimony Ex. WEA-23 (Case Ex. 440) used incorrect data from Mr. Gorman's direct testimony exhibit MPG-4 (Case Ex. 353).[27]

As a result of these errors, Dr. Avera used incorrect data in his Revised DCF analysis and improperly excluded some consensus analysts' growth rates for companies in the proxy groups

[23] Tr. 3340:13-19.
[24] Tr. 3333:1-19.
[25] Tr. 4551:23-4576:11.
[26] Tr. 4562:5-4564:11.
[27] Tr. 4568:12- 4570:5.

that were properly included by Mr. Baudino and Mr. Gorman in conducting their DCF analysis.[28] Improperly eliminating these data points caused Dr. Avera's revised DCF analysis to overstate consensus analyst growth rates for the proxy groups used by Mr. Baudino and Mr. Gorman by as much as 50 basis points.[29] This error skewed Dr. Avera's revised cost of equity estimates for Mr. Gorman[30] and Mr. Baudino,[31] resulting in a higher ROE than Mr. Gorman's[32] and Mr. Baudino's[33] results.

In summary, FPL's rebuttal to the FEA and SFHHA ROE recommendations is based on fundamentally flawed analysis which discredits FPL's criticism of FEA and SFHHA ROE recommendations. The most appropriate ROE for FPL is 9.25%, which is the midpoint of FEA witness Gorman's recommendation of 9.10% to 9.40%.

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

POSITION: * The appropriate capital structure should reflect the FEA position in issue 51.*

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

POSITION: * No. See FEA position on issues 51, 54, and 58.

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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[28] Tr. 4572:14-4573:11; *See also* Ex. 366 [Gorman Exhibit MPG-4 "Consensus Analyst Growth Rate"
[29] Tr. 4573:8-10.
[30] Tr. 0444:11-17 and Ex. 440 (Dr. Avera Rebuttal Ex. WEA-23)
[31] Tr. 0444:11-17 and Ex.441 (Dr. Avera Rebuttal Ex. WEA-24)
[32] Ex. 354. (Mr. Gorman Direct exhibit MPG-5)
[33] Ex. 297 p. 2 of 2 (Mr. Baudio exhibit RAB-4 p. 2 of 2)

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA adopts the position of SFHHA.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of OPC.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

ISSUE 72: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the ECCR?

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

ISSUE 75: Is the percentage value (or other assignment value or methodology basis) used to allocate NextEra Energy, Inc. corporate costs and/or expenses to FPL appropriate?

POSITION: *FEA takes no position on this issue.*

ISSUE 76: Should the percentage value (or other assignment value or methodology basis) of NextEra Energy, Inc. corporate costs and/or expenses allocated to FPL be equal to the percentage value(or other assignment value or methodology basis) of NextEra Energy, Inc. corporate costs and/or expenses allocated to NextEra Energy Resources, LLC?

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA adopts the position of FIPUG*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

ISSUE 92: DROPPED

ISSUE 93: DROPPED

ISSUE 94: What is the appropriate amount of advertising expenses for the 2013 projected test year?

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of FIPUG.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of OPC.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA adopts the position of OPC.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of FIPUG.*

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

POSITION: *FEA adopts the position of FIPUG.*

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? (Fallout Issue)

POSITION: *No.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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 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: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA takes no position on this issue.*

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? (Fallout Issue)

POSITION: *FEA adopts the position of OPC.*

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? (Fallout Issue)

POSITION: *FEA adopts the position of OPC.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of FIPUG.*

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: *FEA adopts the position of FIPUG.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of OPC.*

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: *FEA takes no position on this issue.*

ISSUE 132: Is FPL's requested net operating loss of $32,092,000 ($32,712,000 system) for the

Canaveral Modernization Project appropriate?

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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. Within the context of its next rate case, FPL should employ a cost methodology which utilizes the new MDS cost of service methodology.*

DISCUSSION:

The standard tool for determining whether a class requires a rate increase or decrease is an embedded class cost of service ("ECOS") study, which shows the rate of return for each class of service.[34] The basic purpose of a class cost of service study is an empirical determination of the cost of serving the various classes of customers.[35] With the results of a properly performed ECOS, one can identify which customers cause costs to be incurred and, thus, to assign costs to

[34] Tr. 3374:1-3.
[35] Id.

cost causers.

Unfortunately, FPL's study is not fully properly performed. FPL's ECOS study fails to recognize that a significant portion of distribution costs - other than the cost of services and meters, are incurred on a per customer basis (i.e., they are incurred whenever service is provided to additional customers, and are incurred regardless of customer demand.)[36]

By allocating distribution costs on demand, FPL essentially assumes that those costs vary in proportion, or are caused by, customer demand. This is true, but only partly so, as FEA witness Stephens explained, a portion of utility distribution costs are caused by simply hooking more customers onto the system, and are established in accordance with minimum safety requirements set forth in the National Electrical Safety Code, in accordance with Florida's Administrative Code.[37] Such costs are often recognized in the concept known as the MDS, which represents a collection of costs that must be incurred to extend distribution service to the customers.[38] By definition, the MDS represents a portion of the cost of every distribution component necessary to provide service, (i.e., meters, services, secondary and primary wires, poles, substations, etc.). The cost included in the MDS, however, is only that portion of the total distribution cost that the utility must incur to provide service to customers; it does not include costs specifically incurred to meet the peak demand requirements of the customers.[39] Those excluded costs are properly allocated on the basis of demand.

Recognition of the customer component in these allocations is consistent with Customer Aid In Construction (CAIC) F.A.C. Rule 25-6.064, which specifies that "the utility shall prorate

[36] Tr. 3377:8-22.
[37] Tr. 3386:9-3388:8.
[38] Tr. 3385:6-10.
[39] Tr. 3385:13-23.

the total CIAC over the number of end-use customers expected to be served."[40] This supports the notion that the cost of distribution facilities varies, at least in part, with the number of customers on the system. The ECOS should recognize this basic fact in allocation of these costs.

Although the Commission has, at times, ruled against recognition of the MDS, it has also properly recognized it as a cost determinative factor. In Order No. PSC-02-1169-TRF-EC, issued in Docket No. 020537-EC on August 26, 2002, the Commission approved rates for CHELCO that were based on an ECOS study which used the "zero-intercept" method to estimate the MDS costs, and allocated them based on the number of customers. In addition, in approving a rate settlement in the recent Gulf Power Company rate case, Docket No. 110138-EI, which was based on cost of service results that recognized the MDS and allocated associated costs on a customer basis, the Commission also acknowledged the concept.[41] Though the Commission sought to make distinctions in the CHELCO case that supported its use of MDS in that case, as Mr. Stephens explained, nothing in the current case would warrant return to the inferior position of ignoring the MDS.[42] Further, Mr. Stephens fully addressed and defused various other excuses for ignoring the MDS cited in prior Commission cases, and explained that MDS is recognized in many other states.[43]

In FPL's rebuttal testimony, witness Ender rehashes the varied arguments previously levied against recognition of the MDS, none of which should be determinative. For example, he points to the fact that the Commission has, in the past, generally failed to recognize it.[44] This point is acknowledged above, but is of little value in determining the merit of the issue in this case, since the Commission's position has not been exclusive and, even if it had been, was not

[40] Tr. 3388:19-3389:6.
[41] Tr. 3390:7-10.
[42] Tr. 3390:12-3393:9.
[43] Tr. 3393:11-3398:5.
[44] Tr. 4911:5-7.

based on the record of this case.

Next, Mr. Ender opines that "the MDS method is based on a set of distribution facilities designed to serve the zero or minimum load requirements of customers, which this Commission has previously stated is purely fictitious and has no grounding in the way the utility designs its systems or incurs costs because no utility builds to serve zero load."[45] However, FEA witness Stephens dismissed this notion:

"The notion that the MDS is designed to carry no load is an over-simplification, and is also something of a straw-man argument. A better description of the MDS is that it reflects the smallest, lowest cost distribution system that must be installed for the utility to meet its obligation to provide service to its customers, but does not contain costs incurred to meet the customer's peak load. Therefore, the MDS methodology only requires the analyst to identify the electric system components that must be installed to meet whatever construction, safety and/or reliability standards are enforced by the governing authorities at the time the line is installed. Costs for meeting system demand above these minimum levels are properly allocated on demand, as FPL has done."[46]

Thus, the most realistic and accurate concept of the MDS is that it consists of the network of electric lines that conform to the NESC requirements described in the Florida Administrative Code.

Finally, Mr. Ender argues that recognition of the MDS somehow "double counts the kW loads of residential customers and the smallest commercial customers for the investment in transformers associated with their so-called minimal load requirements."[47] However, Mr. Ender fails to acknowledge that his alleged "double counting," if existing at all, would apply to

[45] Tr. 4912:6-10.
[46] Tr. 3395:4-14.
[47] TR. 4913:7-9.

all classes, not just the residential and small commercial classes. Thus, if it is applicable to all classes, there is no basis to assume that any particular class would suffer more than any other from the alleged double allocation. Certainly Mr. Ender has not established that this would be the case.

FEA has taken the position that the MDS consideration should be implemented in FPL's ECOS filed in its next rate case. However, this should not be construed as opposing utilizing MDS in the current case, to the extent proposed by any other party. FPL's ECOS is deficient in this regard and any improvement that can be accomplished is favored sooner rather than later.

In summary, FPL's ECOS study does not include the MDS and thereby fails to account for the non-demand related costs required to bring new customers on line. FPL's methodology assigns costs based on the demand that each customer places on the system rather than the number of customers. Additionally FPL's methodology ignores the fact that there are costs directly related to the number of customers served by the system. This methodology creates a cost shift from residential to larger commercial class customers such as Patrick Air Force Base. This occurs because the high-demand large industrial customers are forced to bear the non-demand related costs of bringing large volumes of smaller customers on to the system. This is an inequitable cost shift which the Commission should remedy by ordering FPL to include the MDS method in its ECOS study.

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

POSITION: *FEA adopts the position of SFHHA.*

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

POSITION: *FEA adopts the position of SFHHA.*

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

POSITION: * FPL should assign the cost of single-phase primary voltage facilities to secondary voltage customers in the context of its next rate case.*

DISCUSSION:

This is a relatively new issue in FPL cases. Primary voltage facilities, i.e. facilities energized at primary voltages and supporting facilities are configured as either three-phase or single-phase. FEA witness Stephens explained the situation as follows:

When power is generated, it leaves the generating plant in three separate phases, and is transmitted via separate conductors for each phase. Single phase primary distribution circuits are composed of a single conductor that is energized to a primary voltage level, and a ground conductor. Dual-phase primary distribution circuits consist of two energized conductors and a ground conductor and three-phase primary distribution circuits consist of three energized conductors and a ground conductor. All household appliances, for example, operate on single-phase service, while some industrial applications, such as large motors, operate on three-phase service.[48]

In the ECOS, FPL allocates all primary voltage facilities, whether single-phase, dual-phase or three-phase, to both primary and secondary voltage customers, principally on the basis of demand. However, Mr. Stephens also explained that single-phase distribution equipment generally is not used in any significant way to serve primary voltage customers. Therefore, the Company's ECOS study does not properly allocate these distribution costs to the customers for which they are incurred.[49]

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48 Tr. 3381:5-13

49 Tr. 3380:13-3381:2.

As Mr. Stephens explained, other than those that are directly assigned, distribution system costs should be sorted into three separate sub-functions: (1) three-phase primary costs; (2) single- and dual-phase primary costs; and (3) secondary costs. Three-phase primary costs should be allocated to all customer classes on the basis of peak demand, since these costs are incurred to serve both primary and secondary voltage customers. However, single- and dual-phase primary circuits are not often, if at all, used to serve primary customers. Therefore, single- and dual phase primary circuit costs should be allocated to the rate classes based only on the load served via such circuits. Secondary costs, of course, should be allocated only to secondary customers.[50] Mr. Stephens went on to describe a method for FPL to analyze its cost records to make reasonable estimates of the proper splits of primary voltage costs into single-phase, dual-phase and three-phase, for FPL's use in this or the next rate case.[51]

In its rebuttal testimony, FPL recognized the merit of FEA's position and agreed that it "bears further consideration," but effectively requested additional time to gather the necessary information to evaluate this methodology change.[52] Therefore, since FP&L has not done an MDS study[53] the Commission should adopt the rationale for such a study as set forth by Mr. Stephens as described above and set forth in Mr. Baron's testimony on behalf of SFHHA.[54] The Commission should also direct FPL to utilize the MDS methodology in its next rate case accordingly.

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

POSITION: *FEA takes no position on this issue.*

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[50] Tr. 3382:9-18.
[51] Tr. 3383:15-3384:13.
[52] Tr. 4934:18-20.
[53] TR. 4965:12-21
[54] Tr. 3108:23-3112:6.

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

POSITION: * FPL has disproportionately and unfairly allocated revenues to the CILC-1T rate class in contravention of Commission's gradualism policy to limit individual rate class increases to no more than 1.5 times the average for all rate classes. Per MFR Schedule E-13(a) (Exhibit 482) The CILC-1T rate class will see the highest increase to base revenues (34%) of any rate class which is over 300% higher than the average base revenue increase of 11%. This "rate shock" will have an enormous adverse impact on FEA customers within the CILC-1T rate class including Patrick AFB, NASA, and Cape Canaveral and should not be approved by this Commission. FEA also agrees with SFHHA's assessment on this issue in that 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 upon "total revenues," not "base and miscellaneous revenues."*

DISCUSSION:

FPL's prehearing position was that increases "should be allocated as shown in MFR-E-8.[55] However, as SFHHA witness Baron highlighted in his testimony "FPL has proposed increases to some rate classes that are substantially in excess of 1.5 times the average retail base rate increase requested by the Company. "[56] Mr Baron tabulated the base rate increases proposed by FPL for the major rate classes and compared that increase to the retail average.[57] His data revealed that the CILC-1T rate class will see a 35.2% increase which is the highest of any category and well above the retail average rate increase of 12%.[58] This large increase in rates can be attributed to FPL's entirely unreasonable proposal to increase the On-Peak period per kwh charge for the CILC-1T rate class by 290%.[59] Such a large increase in no way gives reasonable weight to the concept of gradualism promoted by this Commission.

Mr Baron proposed an alternative methodology that utilizes base plus miscellaneous

[55] MFR E-8 was sponsored by witness Deaton at Ex. 217.
[56] Tr. 3085:10-12.
[57] Tr.3121:17-3122:1 (Table 9)
[58] Id.
[59] MFR E-14 Atch 1 of 4 p. 27 of 98 and AFR E-13c p. 10 of 44. [FPL is proposing to increase the CILC 1-T On-Peak Period charge from $.05992/kwh to $.02337/kwh.

revenues rather than the "total revenues" used by FPL for both the initial target increase and the application of the "1.5 times the maximum increase" rule.[60] In adhering to this principle, Mr Baron developed four revenue allocation analyses and summarized the results of his revenue allocation results in Table 10 of his testimony.[61] Mr Baron proposes an increase in base revenue to the CILC-1T rate class of $2,904,845.[62] This increase would place the CILC-1T rate class at an 18% increase to base revenue, compared to an overall retail rate class increase of 12%.[63]

FEA does not necessary agree that the cost of service for the CILC-1T rate class would support even an 18% increase in the base revenue requirement. An 18% increase would place the CILC-1T rate class at "1.5 times" the revised average and at the maximum range of the Commissions policy. However, Mr Baron's analysis is much more reasonable the FPL proposal which would increase revenues from the CILC-1T rate class by $5,678,789 (a 35.2% increase) and "3 times" the average.[64]

Lastly, FEA requests the commission consider the adverse impact that even an 18% increase in base revenue requirement would have on FEA customers in the CILC-1T rate class, such as Patrick AFB, NASA and Cape Canaveral when making the final ruling. FEA customers are unique with respect to other retail customer classes in terms of their mission and how they are funded. Their mission is to support the national defense of the country and in the case of NASA to pioneer the future in space exploration, scientific discovery and aeronautics research. Their operations (and utility bills) are not paid for with revenues generated from sales of goods but from taxpayer dollars. Any increase in base revenue requirement proposed by FPL will harm the ability of FEA to accomplish their federal mission.

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[60] Tr. 3123:11-15
[61] Tr. 3124:10-11.
[62] Id.
[63] Id.
[64] Tr. 3122 Table 10.

FPL has relied heavily on their on their proclamation that they provide low "net" bills to customers to justify the proposed base revenue increases.[65] However the majority of the "net" bills costs come from fuel charges that are simply passed through to the customer. Fortunately for FPL and its customers the fuel costs for natural gas which represent a sizable portion of their fuel source for energy generation are currently low. However the current low price for natural gas does not give FPL the right to disguise an On-Peak period charge per kWh charge increase of 290% for the CILC-1T rate class. This is especially true when considering that the a sizable portion of the savings FPL has achieved in reliance on natural gas as a fuel source was not necessarily due to FPL's management decisions but due in part to circumstance and this Commission's decision in 2007 to reject FPL's plan to build a $5.5 billion coal facility as "not the most cost effective alternative available."[66]

For the reasons stated above, FPL's proposed base revenue increases by rate class are without merit (especially in regard to CILC-1T) and should not be adopted by this Commission.

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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[65] Tr. 0467:4-8.

[66] Tr. 4797:3-9 and Ex. 632; Tr. 4798:16-19.

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA adopts the position of FIPUG.*

ISSUE 167: Should the CILC rate be reopened?

POSITION: *FEA adopts the position of FIPUG.*

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

POSITION: *FEA adopts the position of FIPUG.*

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

POSITION: *FEA agrees with the position of FIPUG. The CDR credit was set at $4.68 per kW in 2004 and based upon the cost of new generation capacity. However despite increases in generation capacity since that time, the CDR credit remains the same at $4.68. It should be increased to $12.07 per kW to account for the increases in generation capacity since 2004. Additionally, since the CILC program benefits the system in the same manner as the CDR program, the current CILC credit of $3.79 per kW should also be increased to at least the same level of the proposed CDR credit of 12.07 per kW. *

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

ISSUE 172: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

POSITION: *FEA takes no position on this issue.*

ISSUE 173: What is the appropriate method of designing time of use rates for FPL?

POSITION: *FEA takes no position on this issue.*

ISSUE 174: What are the appropriate customer charges for January 1, 2013?

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

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

POSITION: *FEA takes no position on this issue.*

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: *FEA takes no position on this issue.*

ISSUE 193: Should this docket be closed?

POSITION: *FEA takes no position on this issue.*

Respectfully submitted this 21st day of September, 2012.

s/ Gregory J. Fike

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On behalf of Federal Executive Agencies

CERTIFICATE OF SERVICE

Docket No. 120015-EI

I HEREBY CERTIFY that a true and foregoing **POST-HEARING STATEMENT OF ISSUES AND POSITIONS FOR THE FEDERAL EXECUTIVE AGENCIES** has been furnished by electronic mail on this 21st day of September, 2012, to the following:

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