

**Eric Fryson**

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**Sent:** Thursday, November 08, 2012 3:57 PM  
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**Subject:** Electronic Filing / Dkt 120015-EI / Joint Prehearing Statement Regarding Proposed Settlement Agreement  
**Attachments:** Docket 120015 - Joint prehearing statement.docx; Docket 120015 - Joint prehearing statement.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 120015 – EI  
In re: Petition for rate increase by Florida Power & Light Company

c. The Document is being filed on behalf of Florida Power & Light Company.

d. There are a total of 19 pages

e. The document attached for electronic filing is Joint Prehearing Statement Regarding Proposed Settlement Agreement.

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DOCUMENT NUMBER-DATE

07567 NOV-8 2012

FPSC-COMMISSION CLERK

11/8/2012

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

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

Docket No. 120015-EI  
November 8, 2012

**JOINT PREHEARING STATEMENT  
REGARDING PROPOSED SETTLEMENT AGREEMENT**

Florida Power & Light Company (“FPL”), the Florida Industrial Power Users Group (“FIPUG”), the South Florida Hospital and Healthcare Association (“SFHHA”) and the Federal Executive Agencies (“FEA”) (collectively, the “Signatories”), pursuant to the Third Order Revising Order Establishing Procedure PSC-12-0529-PCO-EI, hereby file with the Florida Public Service Commission (“FPSC” or the “Commission”) their Joint Prehearing Statement in connection with the Joint Motion for Approval of Settlement Agreement filed August 15, 2012. This Joint Prehearing Statement documents the Signatories’ positions solely for the purposes of this Docket No. 120015-EI based upon the Proposed Settlement Agreement as a package and the compromises reflected therein.

**I. Signatory Witnesses**

<b>Witness</b>	<b>Subject Matter</b>
Terry Deason, FPL (Proposed Settlement Agreement – Direct)	Provides a contextual background for the Commission’s consideration of the Proposed Settlement Agreement; describes how the Commission has historically applied the public interest standard in the context of rate case settlement agreements.
Ryan M. Allen, FEA (Proposed Settlement Agreement – Direct)	Identifies the economic impact that FPL customers at Patrick AFB and Cape Canaveral Air Station have on the Florida economy under various measures (e.g., number of jobs created; annual expenditures for construction services, materials; etc.) and highlights the adverse impact that increased utility bills have on the ability of Patrick AFB and Cape Canaveral to make the necessary purchases and investments in the local economy to support essential military operations.

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<p>Rena Deaton, FPL (Proposed Settlement Agreement – Direct)</p>	<p>Demonstrates that the rates under the Proposed Settlement Agreement are consistent with the public interest because the bills for residential customers will remain the lowest in Florida and the bills for commercial and industrial customers will be more competitive with those of other utilities in Florida and the Southeast during the four year term.</p>
<p>Jeffry Pollock, FIPUG (Proposed Settlement Agreement – Direct and Rebuttal)</p>	<p>Details in his direct testimony the reasons why the Proposed Settlement Agreement is in the public interest; comments on the benefits of the Proposed Settlement Agreement to consumers, such as the stability and certainty associated with freezing base rates for four years, moving rates closer to parity and shifting risk from consumers to FPL for higher operating expenses from 2013 through 2016, future infrastructure investments and additional post-test year expenses; Addresses in his rebuttal testimony issues raised by OPC witnesses Ramas and O'Donnell, and affirms his conclusion that the Proposed Settlement Agreement is in the public interest and should be approved.</p>
<p>Sam Forrest, FPL (Proposed Settlement Agreement – Direct)</p>	<p>Explains the incentive mechanism set forth in paragraph 12 of the Proposed Settlement Agreement; describes the mechanism and historical results of FPL's existing incentive mechanism related to gains on power sales; provides an overview of the additional asset optimization measures proposed as well as the regulatory filings that FPL will make under the proposed incentive mechanism; and demonstrates that inclusion of the incentive mechanism in the Proposed Settlement Agreement is consistent with the public interest.</p>
<p>Lane Kollen, SFHHA (Proposed Settlement Agreement – Direct and Rebuttal)</p>	<p>Demonstrates in his direct testimony that each of the provisions in the Proposed Settlement Agreement identified in Appendix A to the Third Order Revising Order Establishing Procedure provides benefits to ratepayers in the context of the Proposed Settlement Agreement as a package and is in the public interest; also demonstrates that the Proposed Settlement Agreement as a whole is in the public interest. Demonstrates in his rebuttal testimony that while the Proposed Settlement Agreement is cost-based, this is not necessarily a criterion to determine whether the Proposed Settlement Agreement it is in the public interest. Also demonstrates that the incentive mechanism of the Proposed Settlement Agreement provides potential benefits to ratepayers, with no potential risk or downside.</p>

<p>Robert E. Barrett, FPL (Proposed Settlement Agreement – Direct)</p>	<p>Explains three provisions in the Proposed Settlement Agreement and demonstrates that inclusion of those provisions is consistent with the public interest: (1) the Generation Base Rate Adjustment (“GBRA”) for the Canaveral, Riviera and Port Everglades Modernization Projects; (2) the amortization of FPL’s remaining depreciation reserve and a portion of FPL’s dismantlement reserve; and (3) the deferral of FPL’s filing of its depreciation and dismantlement studies.</p>
<p>Moray Dewhurst, FPL (Proposed Settlement Agreement – Direct)</p>	<p>Provides an overview of the Proposed Settlement Agreement and explains how it appropriately benefits FPL’s customers, its investors and the state of Florida and therefore is consistent with the public interest.</p>
<p>Terry Deason, FPL (Proposed Settlement Agreement – Rebuttal)</p>	<p>Rebuts the testimony of OPC witnesses Pous and Ramas by demonstrating that (1) the discretionary amortization of depreciation and dismantlement reserve and the deferral of such studies do not treat customers unfairly or violate the matching principle; (2) an evaluation of the cost basis for resulting rates is not a prerequisite to approving settlements; and (3) the GBRA mechanism is entirely consistent with sound regulatory principles and includes the benefit of a rigorous level of cost review and operational scrutiny in the need determinations for the respective generation units.</p>
<p>Sam Forrest, FPL (Proposed Settlement Agreement – Rebuttal)</p>	<p>Rebuts the testimony of OPC witness Daniel by (1) demonstrating that the proposed Incentive Mechanism will not undermine service reliability and would result in customers receiving the vast majority of savings/gains and would provide a meaningful incentive compared to the current mechanism; (2) explaining the difference between the economic dispatch process and the process of entering into wholesale power purchases and sales; (3) showing that FPL has provided detailed information regarding the Incentive Mechanism; and (4) addressing the proposed review process.</p>
<p>Robert E. Barrett, FPL (Proposed Settlement Agreement – Rebuttal)</p>	<p>Rebuts the testimony of OPC witness Pous and Ramas by demonstrating that (1) the proposed settlement rates are fair, just and reasonable, and are supported by record evidence regarding FPL’s costs; (2) GBRA is necessary to accommodate a four-year term and ensures cost protection for customers; (3) the discretionary amortization of FPL’s dismantlement reserve will not lead to significant intergenerational differences; and (4) it is reasonable to defer the depreciation and dismantlement studies in order to provide customers the benefit of stability and</p>

	predictability in rates.
Moray Dewhurst, FPL (Proposed Settlement Agreement – Rebuttal)	Demonstrates that (1) OPC witness O’Donnell’s arguments with respect to return on common equity (“ROE”) and capital structure are fundamentally flawed because he ignores the broader context of the Proposed Settlement Agreement and the environment in which it was negotiated; (2) witness O’Donnell ignores relevant authorized ROEs for other utilities against which FPL is compared by investors; that witness O’Donnell’s own data undermine his argument that the cost of capital has declined in 2012; and (3) that witness O’Donnell’s view on equity ratio continues to ignore the fact that utilities’ risk profiles differ, and that FPL faces a unique collection of risks.

## II. Signatory Exhibits

Exhibit	Description	Sponsor
RMA-1	2011 Economic Impact Analysis Patrick Air Force Base and Cape Canaveral Air Force Station	Ryan M. Allen
RBD-12	FPL Bill Comparisons Under Settlement Rates – January 2012 to January 2013, June 2013	Renae B. Deaton
RBD-13	FPL Bill Comparisons Under Settlement Rates vs. Rates Proposed in March 2012 MFRs- June 2013	Renae B. Deaton
RBD-14	Parity of Major Rate Classes: Current and Proposed Settlement Agreement	Renae B. Deaton
RBD-15	EI Industrial Bill Comparison- January 2012	Renae B. Deaton
RBD-16	Late Payment Charge Survey	Renae B. Deaton
JP-1	Incremental Infrastructure Cost	Jeffry Pollock
JP-2	Return on Equity	Jeffry Pollock
JP-3	2013 Class Revenue Allocation	Jeffry Pollock
JP-4	Cost Effectiveness	Jeffry Pollock
JP-5	Incremental Infrastructure Costs	Jeffry Pollock
JP-6	Return on Equity	Jeffry Pollock
JP-7	Incremental Infrastructure Cost (Errata to JP-1)	Jeffry Pollock
JP-8	Return on Equity (Errata to JP-2)	Jeffry Pollock
SF-1	Historical Performance of Existing Incentive Mechanism	Sam A. Forrest
SF-2	Historical Performance of Power Sales Gains and Purchased Power Savings	Sam A. Forrest
SF-3	Example- “Total Gains Schedule”	Sam A. Forrest
REB-9	GBRA ROE Midpoint Illustrative Example	Robert E. Barrett, Jr.
REB-10	MFR A-1 Canaveral, Riviera, and Port Everglades	Robert E. Barrett, Jr.
REB-11	Dismantlement Reserve - Illustrative Example of	Robert E. Barrett, Jr.

	<b>Impact of Amortization on Future Accruals</b>	
REB-12	Depreciation Accrual - Illustrative Example of Effect of Nuclear Plant Additions on Accrual	Robert E. Barrett, Jr.
SF-4	Incentive Mechanism Comparison	Sam A. Forrest
SF-5	FPL responses to Staff's Twenty-Second Set of Interrogatories, Nos. 608 through 611	Sam A. Forrest
SF-6	FPL's Natural Gas Assets	Sam A. Forrest
REB-13	ROE Calculation Reflecting Proposed Settlement Agreement	Robert E. Barrett, Jr.
REB-14	Projected Capital Expenditures (2014-2016) Excluding New Generation	Robert E. Barrett, Jr.
REB-15	FPL's response to OPC's Sixteenth Set of Interrogatories, Question No. 275	Robert E. Barrett, Jr.
REB-16	Total Project Construction Costs for TP5 and WCEC 1&2 – Need vs. Actual	Robert E. Barrett, Jr.
MD-11	Proposed Settlement Agreement	Moray P. Dewhurst

In addition to the above pre-filed exhibits, the Signatories reserve the right to utilize any exhibit introduced by any other party. The Signatories additionally reserve the right to introduce any additional exhibit necessary for rebuttal, cross-examination or impeachment at the final hearing.

### **III. STATEMENTS OF BASIC POSITION**

#### **FPL:**

##### **Background**

On March 19, 2012, FPL filed a petition requesting a permanent increase in base rates (the "March 2012 Petition"). After all testimony had been prefiled and following months of discovery, including numerous depositions and responses to several hundred interrogatories and requests for production the Signatories reached an agreement that, if approved, will resolve the March 2012 Petition (the "Proposed Settlement Agreement"). Approval of the Proposed Settlement Agreement also would obviate the need to litigate at least one, and as many as three, prospective base rate cases that FPL would file in the next year or two when it brings the Canaveral, Riviera Beach and/or Port Everglades Modernization Projects to commercial

operation. The voluminous information available to the Signatories in the MFRs, the prefiled testimony and the discovery responses facilitated thoughtful and careful negotiations that appropriately considered all relevant facts necessary to achieve a balanced outcome. On August 15, 2012, the Signatories filed a Joint Motion for Approval of Settlement Agreement.

The Signatories' efforts to reach an agreement and their pending request for approval are consistent with Florida's public policy favoring settlements. The FPSC has a long history of encouraging settlements, giving them great deference and "enforcing them in the spirit in which they were reached by the parties." Order No. PSC-05-0902-S-EI. As with all negotiated solutions, the Proposed Settlement Agreement represents a series of interrelated compromises reached by independent parties with varied interests, which differ from their litigation positions. Settlement negotiations also offer an opportunity to innovate. The Proposed Settlement Agreement is no exception. While none of the terms breaks new substantive ground, the parties resourcefully assembled various elements in a way that strikes a fair balance. And as with any settlement, the merits of the Proposed Settlement Agreement should be considered as a whole, rather than focusing on any individual provision or subset of provisions in isolation.

The standard for approval of a settlement agreement presented to the Commission is whether the agreement is in the public interest. As explained below, and in greater detail in the prefiled testimony of FPL and the other Signatories, the Proposed Settlement Agreement, considered as a whole, fairly and reasonably balances the interests of FPL's customers, its shareholders, and the state of Florida. Accordingly, the Proposed Settlement Agreement is in the public interest and should be approved.

## Principal Terms

The principal terms of the Proposed Settlement Agreement provide as follows:

- There would be a four-year term beginning January 1, 2013 and ending December 31, 2016. Other than as expressly provided in the Proposed Settlement Agreement, FPL could not seek another base rate increase during the term of the Proposed Settlement Agreement.
- There would be two forms of base rate adjustments:
  - A \$378 million increase, effective January 1, 2013. This is a \$139 million reduction from FPL's request.
  - GBRA's upon the commercial operation date ("COD") for the Canaveral Modernization Project (COD projected for June 2013), the Riviera Beach Modernization Project (COD projected for June 2014), and the Port Everglades Modernization Project (COD projected for June 2016). For the Canaveral Modernization Project, the GBRA would be based upon the revenue requirement reflected in the March 2012 Petition in this docket and accompanying MFRs, including the revised costs and expenses included in the Appendix to FPL's posthearing brief; for the Riviera and Port Everglades Modernization Projects, the GBRA would be based upon the costs presented in the need determinations for those projects. For all three modernization projects, the GBRA calculation incorporates the Proposed Settlement Agreement 10.70 % ROE, the revised long term debt rate set forth in FPL's posthearing brief, and the incremental, revised capital structure from the Canaveral Step Increase MFRs.
- FPL's ROE would be 10.70 percent for all purposes (range of 9.70 percent - 11.70 percent).
- FPL would continue its current recovery of West County Unit 3 revenue requirements through the capacity cost recovery clause, but the recovery would not be limited by the unit's projected fuel savings.
- FPL would be given continued flexibility during the term of the Proposed Settlement Agreement to amortize the remaining depreciation reserve surplus after 2012 (a minimum of \$191 million) and up to \$209 million of fossil dismantlement reserve, with the obligation to use that flexibility to endeavor to maintain FPL's earned ROE within the range of 9.70 percent to 11.70 percent.
- New depreciation or dismantlement studies would not be required to be filed during the term of the Proposed Settlement Agreement.
- The storm cost recovery mechanism provided in the 2010 settlement agreement would remain in effect.
- The regulatory framework for recovery of gains on the purchase and sale of wholesale power as well as other forms of asset optimization would be revised to enhance FPL's incentives to maximize economic opportunities while flowing the substantial majority of realized benefits back to customers.

- Retail customers would receive \$36 million in gains/savings as a baseline amount, plus 100 percent of the first incremental \$10 million in gains/savings above the initial \$36 million threshold;
- From \$46 to \$75 million, gains/savings would be shared 70/30 between FPL and customers;
- From \$75 to \$100 million, gains/savings would be shared 60/40 between FPL and customers; and,
- Over \$100 million, gains/savings would be shared 50/50 between FPL and customers.

### **The Proposed Settlement is in the Public Interest**

The Commission has generally applied a public interest standard to determine whether a proposed settlement agreement should be approved. The determination of what constitutes the public interest is left to the discretion of the Commission, which in turn is guided by its regulatory responsibility to set rates that are just, reasonable and compensatory. The specific factors that the Commission considers in evaluating a proposed settlement depends on the facts of each case.<sup>1</sup>

The Proposed Settlement Agreement is consistent with the public interest. It offers ratepayers in every rate class the benefits of reasonable rates with stability and predictability and provides FPL with the required financial integrity that will allow FPL to continue to make the investments necessary to ensure high quality, reliable service. The Proposed Settlement Agreement, considered as a whole, balances the interests of FPL's customers, its shareholders and the state of Florida.

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<sup>1</sup> There is no dispositive list of public interest factors. Based on review of prior FPSC orders, the Commission has, at various times given the following reasons: the overall reasonableness of the resulting rates; rate stability and predictability; the resulting financial strength of the public utility and its ability (and encouragement) to make needed capital investments; the ability of the public utility to maintain or improve its quality of service and overall reliability; the existence of safeguards for the protection of customers and investors; the amount of information provided to make a reasoned decision; regulatory efficiency; the minimization of regulatory costs and burdens; and the minimization of risk and uncertainty.

### *Reasonable Base Rate Increase*

The Proposed Settlement Agreement provides a reasonable base rate increase. FPL's overall revenue request under the Proposed Settlement Agreement is reduced to \$378 million. This represents a \$139 million reduction from FPL's original request of \$517 million, or roughly 25 percent.

Additionally, the base rate increase under the Proposed Settlement Agreement is reasonable when compared to recent increases approved by the Commission for other electric utilities. Expressed as a percentage increase of base rates, FPL's increase of 8.6 percent is less than the increase granted to Gulf Power on April 3, 2012 of 13.3 percent, and the increase approved on March 8, 2012 for Progress Energy Florida's ("PEF") settlement agreement of 9.7 percent. To provide further context for the reasonableness of the increase, both Gulf Power's and PEF's base rates and total bills were *higher* than FPL's before their respective increases. Thus, by comparison, a smaller percentage increase on lower base rates should not be deemed unreasonable.

The reasonableness of the proposed revenue increase is also apparent when one considers the depletion of non-cash accounting credits that FPL will experience in 2013 and 2014. FPL's 2010 base rate order and settlement agreement required FPL to amortize flexibly its theoretical depreciation reserve surplus. The difference in the amounts to be amortized in 2012 (approximately \$558 million) compared to 2013 (\$191 million) represents a loss of \$367 million, and thus requires a corresponding revenue increase.

### *Stability and Low Bills for Customers*

The Proposed Settlement Agreement limits future increases and will continue to provide FPL residential customers the lowest typical bills in Florida. As demonstrated during the August technical hearings, FPL's typical residential bill is the lowest among Florida's 55 electric

providers. Under the Proposed Settlement Agreement, the 2013 typical residential bill is expected to remain the lowest in the state based on the current rates of the other companies. The projected net increase, based on fuel efficiency savings, current fuel price projections, and other components, would only be about \$1.54 a month or 5 cents per day, which is an increase of less than 2 percent. For commercial and industrial classes, the net bill impact for 2013 is expected to range from flat to a 3 percent decrease. Compared to the rates proposed in FPL's March 2012 Petition, the Proposed Settlement Agreement results in bills that are flat or lower for all major rate classes. And, because of GBRA, customers can be assured that the inclusion of Cape Canaveral, Riviera Beach and Port Everglades (at no cost higher than contemplated by this Commission's need orders) will be positive for long term bill affordability. In short, all customers will benefit from the rates in the Proposed Settlement Agreement.

The Proposed Settlement Agreement also strictly limits the opportunities to adjust base rates during the four-year term, which provides rate stability and offers customers a high degree of confidence that their bills will remain among the lowest over that time frame. FPL, on the other hand, would remain exposed to the risks associated with rising interest rates and increased inflation, both of which are widely anticipated at some point within the term of the Proposed Settlement Agreement. Indeed, investors believe that today's interest rate environment is distorted by Federal Reserve Bank actions designed to stimulate the economy. Under the Proposed Settlement Agreement, customers are protected against these risks, as FPL will have no right to recover for such increases unless its ROE falls below 9.7 percent.

*Promotes Economic Development*

The Proposed Settlement Agreement will promote economic development in Florida by implementing more competitive commercial and industrial rates at a critical time for Florida's economy. Such competitive rates are targeted to stimulate job growth and investment both by

the business community in Florida and those outside of Florida who are considering investment in our State. Indeed, FPL's own investments are a significant part of that equation. In 2010, FPL was the largest private investor in the state. Currently, FPL is in the midst of the largest capital investment program in its history, with investments amounting to roughly \$9 billion over three years. That capital investment, made possible by the Company's financial strength and integrity, translates into a positive impact on the Florida economy and the creation of new employment.

The Proposed Settlement Agreement will further stimulate economic development in Florida through rates that make business and industry in FPL's territory more competitive. It is well understood that Florida competes with other states for industry, and therefore must be competitive on a regional or national level. To that end, the Proposed Settlement Agreement increases Commercial and Industrial Load Control ("CILC") and Commercial and Industrial Demand Reduction rider ("CDR") credits to customers over those reflected in the March 2012 Petition, which results in base rate reductions and reasonable, competitive rates for many of Florida's businesses as the state continues to recover from the recession. The CILC and CDR credits are made available in exchange for the ability to interrupt customers during periods of extreme demand, capacity shortages or system emergencies. All other things equal, this will help commercial and industrial businesses in a way that benefits Florida over other southeastern states. In turn, this will not only support employment in Florida, but will also enhance efficiency in the state by incentivizing participation in demand reduction programs which benefits all customers.

#### *Reduced Uncertainty for All Parties*

The Proposed Settlement Agreement reduces uncertainty, which benefits FPL's customers and its shareholders. As previously stated, FPL would not be permitted to seek

another base rate increase during the four-year term, except under the limited circumstances expressly provided. For customers, four years of rate stability provides a clearer view of what their electric bills will be over the term and allows them to plan accordingly. For shareholders, the four-year term offers a greater degree of predictability around the level and variability of FPL's earned ROE, and it reduces regulatory uncertainty. This is especially beneficial for investors with a long-term outlook.

*Promotes Administrative Efficiency*

The Proposed Settlement Agreement includes two features that promote administrative efficiency. First, the use of the GBRA for FPL's Cape Canaveral, Riviera Beach and Port Everglades Modernization Projects will help avoid lengthy, costly and disruptive rate proceedings during the four-year term. Absent rate relief, each project alone would cause a drop of more than 100 basis points of return, thus in all likelihood requiring a subsequent base rate proceeding. While all base rate proceedings tax resources of customers and this Commission, initiating separate rate cases to recover the costs of each of these projects would be particularly wasteful because it would consist of revisiting – on three separate occasions – issues that were already addressed in the underlying need determination proceedings.

Likewise, the Proposed Settlement Agreement provides for the continuation of the current mechanism for recovery of prudently incurred storm restoration costs. This mechanism supports administrative efficiency without sacrificing any Commission oversight regarding the prudence of storm restoration efforts. Additionally, this provision offers risk mitigation to investors.

*Stable Financial Position for FPL*

The Proposed Settlement Agreement helps to ensure that FPL will be able to maintain financial stability and will have access to the financial resources necessary to sustain FPL's

continued investment. Taken in the aggregate, the Proposed Settlement Agreement is likely to be broadly viewed by investors as balanced and constructive. Consequently, capital is likely to be available to FPL on competitive terms, a quality that has long benefitted customers.

The Company's excellent track record of superior reliability and strong customer service is made possible only with the help of sustained investment. FPL is currently investing for the long term benefit of its customers in amounts substantially in excess of internally generated cash flow. FPL must sustain its investment to complete the three major modernization projects, to strengthen its core infrastructure and to enhance the reliability of its transmission and distribution network as well as its generation fleet. The Proposed Settlement Agreement ensures a stable framework that will support FPL's capital raising activities and thereby enable it to sustain the superior level of customer service and reliability that it offers today.

The Proposed Settlement Agreement supports investor interests by offering the prospect of earned ROEs in the range of 9.7 percent to 11.7 percent. Although the proposed ROE is lower than originally requested in FPL's March 2012 Petition and even though it will likely be supported in part by the amortization of non-cash credits to expense, the Proposed Settlement Agreement will nevertheless make FPL more competitive with other utilities in the broader southeast region to which it is commonly compared by investors.

### *Conclusion*

The Proposed Settlement Agreement is in the public interest. It will help continue the benefits that FPL's customers currently enjoy: the lowest typical residential bills in the state, the best service reliability among the Florida Investor Owned Utilities, and excellent, award winning customer service. This is made possible through the Proposed Settlement Agreement's combination of a moderate impact on base rates and a predictable level of support for sustained investment. The Proposed Settlement Agreement also provides, when considered in the

aggregate, an opportunity for investors to earn a reasonable rate of return. Further, it will have a positive impact on the Florida economy by increasing infrastructure investment in the state and promoting job growth opportunities. Finally, the Proposed Settlement Agreement advances administrative efficiency. For all of these reasons, the Proposed Settlement Agreement should be approved.

**FIPUG, SFHHA and FEA:**

Put simply, FIPUG, SFHHA and FEA support the Proposed Settlement Agreement and urges the Commission to approve it.

Evidence adduced during the August hearing in this case, coupled with the additional evidence that will be considered during the November 19, 20 and 21 hearing, establishes that the Proposed Settlement Agreement is in the public interest and should be approved, consistent with this Commission's long history of encouraging and approving settlement agreements. As FIPUG witness Pollock makes clear, the Proposed Settlement Agreement under review provides ratepayers with important benefits such as freezing base rates for four years, moving rates closer to parity and shifting risk to FPL to absorb higher operating expenses from 2013 through 2016, future infrastructure investment and additional post-test year expenses in order to earn a 10.7 return on equity. The 10.7 return on equity is the same return on equity that this Commission approved earlier this year for PEF should it repair and return to service its sole nuclear power plant. Furthermore, the Proposed Settlement Agreement eliminates the double digit base rate increases that would have been imposed on many Florida business as detailed in FPL's original rate case filing and replaces those double digit increases with either no increase or a slight reduction for most Florida businesses in FPL's service territory, something that will help these businesses as the State strives to emerge from the economic doldrums caused by the Great

Recession. The evidence in this case clearly establishes that the Proposed Settlement Agreement is in the public interest and should be approved.

#### **IV. Issues and Positions**

**Issue 1: Are the generation base rate adjustments for the Canaveral Modernization Project, Riviera Beach Modernization Project, and Port Everglades Modernization Project, contained in paragraph 8 of the Stipulation and Settlement, in the public interest?**

Yes. GBRA has worked successfully in the past. Here, in the context of the Proposed Settlement Agreement, it will streamline recovery of revenue requirements for three generating units previously approved in FPSC need determinations, thus eliminating the need for serial, costly rate cases. It is one of the essential elements that makes the four year settlement term feasible. Mathematically, GBRA *cannot* increase FPL's ROE beyond the mid-point. Additionally, it does not eliminate the Commission's oversight.

**Issue 2: Is the provision contained in paragraph 10(b) of the Stipulation and Settlement, which allows the amortization of a portion of FPL's Fossil Dismantlement Reserve during the Term, in the public interest?**

Yes. The ability to amortize \$400 million of depreciation and dismantlement reserve provides FPL the flexibility necessary to achieve reasonable financial results during the extended settlement period. Without this flexibility, base rates could not be held constant for such a long time due to the risk of weather, inflation, mandated cost increases and other factors affecting FPL's earnings that are beyond the Company's control.

**Issue 3: Is the provision contained in paragraph 11 of the Stipulation and Settlement, which relieves FPL of the requirement to file any depreciation or dismantlement study during the Term, in the public interest?**

Yes. Four years of rate stability and predictability is not possible without deferring the filing of FPL's depreciation and dismantlement studies during the term. Neither FPL nor customers could commit to a settlement with fixed base rates, while assuming the risk of depreciation and dismantlement accrual changes during the four-year term.

**Issue 4: Is the provision contained in paragraph 12 of the Stipulation and Settlement, which creates the “Incentive Mechanism” including the gain sharing thresholds established between customers and FPL, in the public interest?**

Yes. The Incentive Mechanism is designed to create additional value for FPL’s customers while also providing an incentive to FPL if it achieves certain customer-value thresholds. It would encourage FPL to pursue forms of asset optimization beyond short-term power sales and purchases. It would update the sharing threshold to provide a more meaningful opportunity for FPL to share in the benefits generated for customers, but only if FPL delivers additional value to customers.

**Issue 5: Is the Settlement Agreement in the public interest?**

Yes. The Proposed Settlement balances the interests that customers have in receiving low rates, high reliability and excellent customer service with the opportunity for investors to have the potential to earn a rate of return commensurate with returns available from other opportunities open to them. It offers reduced uncertainty to both customers and investors. The Proposed Settlement Agreement promotes administrative efficiency. It also supports continued investment in Florida, thus promoting economic growth in the state.

**V. Stipulated Issues**

There are no stipulated issues at this time.

**VI. Pending Motions**

1. FPL’s Motion for Temporary Protective Order for Certain Confidential Information Provided in Response to Staff’s Fifteenth Request for Production (No. 92), filed November 5, 2012. [DN 07465-12]
2. FPL’s Motion for Temporary Protective Order for Certain Confidential Information Provided in Response to Staff’s Amended Twenty-Second Set of Interrogatories (Nos. 614 and 615), filed November 1, 2012. [DN 07413-12]

**VII. Pending Requests or Claims for Confidentiality**

1. FPL’s Request for Confidential Classification of Documents Produced, filed September 27, 2012; [DN 06493-12]
2. FPL’s Request for Confidential Classification of Documents Produced in Response to Staff’s Sixth Request for Production No. 50, filed September 19, 2012; and [DN 06288-12]
3. FPL’s Request for Confidential Classification of Documents Produced, filed September 6, 2012. [DN 06039-12]

**VIII. Objections to Expert Qualifications**

The Signatories have no objections to any witness qualifications.

**IX. Requirements that Cannot Be Complied**

At this time, the Signatories are unaware of any requirements in the Order Establishing Procedure with which they cannot comply.

Respectfully submitted this 8th day of November 2012.

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**CERTIFICATE OF SERVICE  
DOCKET NO. 120015-EI**

I HEREBY CERTIFY that a true and correct copy of FPL's Prehearing Statement was served electronically this 8th day of November 2012, to the following:

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