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FILED 11/8/2018  
DOCUMENT NO. 07056-2018  
FPSC - COMMISSION CLERK

November 8, 2018

Adam Teitzman, Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 20180155-EI Petition for Approval of Regulatory Assets Related to the Retirements of Lauderdale Units 4 and 5 and Martin Units 1 and 2, by Florida Power & Light Company

Dear Mr. Teitzman:

Attached is a list of issues that the Office of Public Counsel has prepared to identify concerns we have with the Petition filed by Florida Power & Light Company (FPL) on August 17, 2018 in the above docket. If you have any question, please feel free to call or e-mail me.

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c: Florida Power & Light (K. Hoffman, W. Cox)  
Office of the General Counsel (J. Crawford, K. Schrader)

List of Issues and Concerns

Docket No. 20180155-EI

Re: Petition for Approval of Regulatory Assets Related to the Retirements of Lauderdale Units 4 and 5 and Martin Units 1 and 2, by Florida Power & Light Company (FPL)

OPC has identified several issues with the proposed treatment of the early retirement of Lauderdale Units 4 and 5 and Martin Units 1 and 2 as proposed by FPL in its petition. The OPC does not object to the early retirement of the facilities. However, the OPC asserts that FPL's proposed treatment violates the terms and conditions of the 2016 Settlement Agreement approved by the Commission in Order No. PSC-16-0560-AS-EI, issued December 15, 2016. To illustrate its concerns, the OPC notes the following:

1. On August 17, 2018, FPL filed its Petition for Approval of Regulatory Assets Related to the Retirements of Lauderdale Units 4 and 5 and Martin Units 1 and 2, by Florida Power & Light Company. In its request, FPL states that it will be retiring both the Lauderdale Units 4 and 5 and Martin Units 1 and 2, in the fourth quarter 2018 prior to the scheduled retirement dates for these units of 2033 and 2031, respectively. Since the units will be retired early, the net book value will not have been fully recovered through depreciation rates at the time of retirement. As support for its proposed accounting treatment, FPL cites to Rule 25-6.0436(7)(a), F.A.C., which provides that prior to the retirement of major installations, the Commission shall approve capital recovery schedules to correct associated calculated deficiencies when the associated investment will not be recovered by the time of retirement through normal depreciation. Therefore, FPL is asking to create a regulatory asset to recover the under-recovered investment in Lauderdale Units 4 and 5 and Martin Units 1 and 2. Then, FPL is seeking to defer the recovery of the regulatory asset and determination of the amortization period until base rates are reset in the next general base rate case.
2. OPC recognizes that the early retirement of these units will trigger the need to establish capital recovery schedules to correct for the associated deficiencies. However, FPL's proposed deferral of recovery of the regulatory asset and amortization until the next general base rate case violates the 2016 Settlement Agreement.

3. FPL in its Petition recognizes on page 5, Paragraph 16, that “[p]ursuant to paragraph 14 of the 2016 Settlement Agreement, ‘the depreciation rates and dismantlement accrual rates in effect as of the Implementation Date shall remain in effect until FPL’s base rates are next reset in a general base rate proceeding.’” However, FPL contends that a conflict is created because it is required to reflect the retirement of these units on its books and records and cease recording depreciation expenses. This is only part of the issue and omits recognition of an offsetting adjustment.
4. OPC disagrees that a conflict is created between the provision of the 2016 Settlement Agreement and the Rule such that it would require that the recovery of the regulatory asset and determination of amortization be deferred.
5. OPC submits that deferral of recovery of this regulatory asset would allow FPL to continue to collecting, through established rates, the depreciation expense for these retired assets thereby increasing its earnings and that the requested deferral of costs (for later recovery) would allow them to effectively recover the plant costs twice for some of this deferred cost (asset) when base rates are next reset.
6. The transfer of costs from the remaining settlement period of 2018-2020 to a future rate recovery period would remove a revenue requirement for which rates provided recovery to a future period resulting in a de facto base rate increase (increase in achieved ROE) and effectively violate the base rate freeze in the 2016 Settlement Agreement.
7. In addition, there is no requirement that FPL will file a general base case upon the expiration of the minimum term, or December 31, 2020, in the 2016 Settlement Agreement. Thus, there is no certain time when the amortization would begin under FPL’s proposal. Under sound regulatory policy, the time to begin amortization for early retiring assets is upon the date of retirement.
8. FPL should be required to establish capital recovery schedules and begin amortization upon the early retirement dates of Lauderdale Units 4 and 5 and Martin 1 and 2. This

would leave O&M expense unchanged and match revenue recovery to the normal O&M expense recovery levels inherent in the 2016 Settlement Agreement. Further, to avoid the windfall to FPL and a violation of the 2016 Settlement Agreement, FPL should be required to amortize Lauderdale Units 4 and 5 and Martin 1 and 2 in an annual amount no less than the amount of depreciation collected annually for these units used to set rates for the 2016 Settlement Agreement. At the time FPL files its next depreciation study, in conjunction with its next rate case, the Commission can then decide if the amortization of the capital recovery schedules for these units should be adjusted going forward.