

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Petition for rate increase by Florida
Power & Light Company.

DOCKET NO. 20210015-EI

FILED: July 14, 2021

PRE-HEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2021-0116-PCO-EI, issued March 24, 2021, modifying Order No. PSC-2021-0120-PCO-EI issued April 1, 2021, and PSC-2021-0120A-PCO-EI issued April 8, 2020, hereby submit this Prehearing Statement.

APPEARANCES:

Richard Gentry
Public Counsel

Patricia A. Christensen
Associate Public Counsel

Anastacia Pirrello
Associate Public Counsel

Charles Rehwinkel
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400

On behalf of the Citizens of the State of Florida

A. WITNESSES:

Witness	Subject Matter	Issue Numbers
Direct		
Roxie McCullar	Depreciation Study	27-31, 51, 100
William Dunkel	Depreciation Cost Rate	33-35, 64, 100

Kevin O'Donnell	Cost of Capital, FPL Rates	67-68, 73, 132
Daniel J. Lawton	Rate Adjustment Surplus Mechanism (RSAM), FPL's Proposed 4 Year Rate Plan Terms Including 50 Basis Point Inflatior, Financial Integrity	18-25, 71, 73, 130, 133, Issue A(contested), Issue J(contested)
J. Randall Woolridge, PH. D.	Cost of Capital	72-73
Ralph Smith, CPA	Accounting Adjustments, Revenue Requirement, RSAM	15-18, 20-24, 48-49, 51, 54, 57, 59, 63-70, 7369,70, 73,69, 74-76, 81, 84-85, 93, 95, 96, 99-107, 130, 133, 134-136, Issue A(contested), Issue J(contested)

B. EXHIBITS:

Witness	Proffered By	Exhibit No.	Description
Direct			
Roxie McCullar	OPC	RMM-1	Previous Experience of Roxie McCullar
Roxie McCullar	OPC	RMM-2	OPC Proposed Remaining Life Depreciation Rates
Roxie McCullar	OPC	RMM-3	OPC Whole Life Depreciation Rates
Roxie McCullar	OPC	RMM-4	FPL Notification to NRC Regarding St. Lucie SLR
Roxie McCullar	OPC	RMM-5	Solar Life Survey
Roxie McCullar	OPC	RMM-6	Comparison Future Net Salvage Accruals
Roxie McCullar	OPC	RMM-7	Comparison of Estimate Reserve Imbalance
Roxie McCullar	OPC	RMM-8	FPL Response FIPUG Interrogatory No. 8
William Dunkel	OPC	WWD-1	Previous Experience of William Dunkel

William Dunkel	OPC	WWD-2	Annual Accrual for Dismantlement at a 6.40% Discount Rate
Kevin O'Donnell, CFA	OPC	KWO-Appendix A.	Curriculum Vitae
Kevin O'Donnell, CFA	OPC	KWO-1	FPL All-Sources Requested Cap Structure
Kevin O'Donnell, CFA	OPC	KWO-2	Yield Spread 2011 through 2020
Kevin O'Donnell, CFA	OPC	KWO-3	Interest Cost Differential
Kevin O'Donnell, CFA	OPC	KWO-4	O&M Costs per MWH
Daniel J. Lawton	OPC	DJL-1	Resume
Daniel J. Lawton	OPC	DJL-2	Historical Equity Return For FPL Per the ESR's
Daniel J. Lawton	OPC	DJL-3	Financial Metrics
J. Randall Woolridge, hPH. D.	OPC	JRW	Qualifications
J. Randall Woolridge, PH. D.	OPC	JRW-1	Recommended Cost of Capital
J. Randall Woolridge, PH. D.	OPC	JRW-2	Public Utility Capital Cost Indicators
J. Randall Woolridge, PH. D.	OPC	JRW-3	Summary Financial Statistics for Proxy Group
J. Randall Woolridge, PH. D.	OPC	JRW-4	Capital Structure Ratios and Debt Cost Rates
J. Randall Woolridge, PH. D.	OPC	JRW-5	The Relationship Between Expected ROEs and M/B Ratios Industry Betas
J. Randall Woolridge, PH. D.	OPC	JRW-6	Public Utility Financials Indicators
J. Randall Woolridge, PH. D.	OPC	JRW-7	DCF Study
J. Randall Woolridge, PH. D.	OPC	JRW-8	CAPM Study
J. Randall Woolridge, PH. D.	OPC	JRW-9	FPL's Proposed Cost of Capital

J. Randall Woolridge, PH. D.	OPC	JRW-10	GDP and S&P 500 Growth Rates
Ralph Smith, CPA	OPC	RCS-1	Qualifications Appendix
Ralph Smith, CPA	OPC	RCS-2	Revenue Requirement and Adjustment Schedules for 2022 Test Year
Ralph Smith, CPA	OPC	RCS-3	Revenue Requirement and Adjustment Schedules for 2023 Subsequent Year
Ralph Smith, CPA	OPC	RCS-4	Demonstration of the Lack of Need for a Reserve Surplus Amortization Mechanism Excluding Storm Write-Off
Ralph Smith, CPA	OPC	RCS-5	Florida Power and Light Company Earned Return on Equity History

C. STATEMENT OF BASIC POSITION

FPL's request is excessive for 2022, without even considering the additional requests for the subsequent time periods. FPL is proposing a so-called 4-year rate plan effective from 2022 through 2025 with requested rate increase in each of these years. FPL is seeking an approximately \$1.108 billion base rate increase in 2022. On top of this request, FPL is now asking for an additional \$607 million in 2023, plus another \$140 million increase in both 2024 and 2025 for Solar Base Rate Adjustments (SoBRAs). FPL has also requested two opposing sets of depreciation lives – the one from their expert depreciation witness Mr. Allis that show a depreciation deficit and the other using FPL employee witness Mr. Ferguson that creates a depreciation surplus. FPL is proposing this depreciation surplus to create the Reserve Surplus Adjustment Mechanism (RSAM) that would allow FPL to manipulate its earnings up to the top of any range established. In the

Company's request, it asks for a 95 basis point (or almost 1% point increase) over its currently authorized ROE midpoint of 10.55% to 11.5%, with the addition of a 50 basis point "adder." Even though FPL claims its request covers a four-year period where they would not seek a "general" base rate increase, there is no prohibition for the Company filing for an increase should it earn below its authorized return, a base rate increase in a limited proceeding, nor is there a promise to not seek an increase if all of the terms are not ultimately approved by the Commission as requested.

OPC has evaluated FPL's Petition, testimony, the Minimum Filing Requirements (MFRs), discovery responses and testimonies filed in this proceeding. OPC has engaged multiple expert witnesses to conduct an extensive and thorough review: Roxie McCullar and William Dunkel, Depreciation and Dismantlement; Kevin O'Donnell, C.F.A., Capital Structure and FPL Rates; and Dan Lawton, Financial Integrity and surplus ROE inflator; Dr. Randy Woolridge, Return on Equity; Ralph Smith, C.P.A., Accounting Adjustments and Revenue Requirement. OPC has identified four principal areas for adjustment: Depreciation and Dismantlement; Revenues; Capital Structure; and Return on Equity.

Depreciation and Dismantlement

FPL's Witness Allis's proposed depreciation parameters results in a reserve deficiency of \$436.5 million. In stark contrast, FPL Witness Ferguson's proposed adjustments to the depreciation parameters results in a reserve surplus of \$1.48 billion. Ms. McCullar's review of FPL's depreciation study prepared by FPL depreciation witness Mr. Allis has demonstrated that FPL's requested increase of \$436.5 million in depreciation expense is materially overstated. Ms. McCullar also reviewed FPL employee Mr. Ferguson's proposed lives for generation plants and either agreed with them or proposed lives in between Mr. Ferguson's and Mr. Allis's proposed lives. Ms. McCullar

recommends more realistic parameters for many of the depreciation accounts. Ms. McCullar's recommendation identifies a total company depreciation reserve excess of \$639.4 million, which she recommends be flowed back to customers using the remaining life technique formula which includes an overall reduction to depreciation rates that offsets any reserve surplus. Assuming that the Commission adopts Ms. McCullar's adjustments to FPL's depreciation study, the sum of the adjustments results in a reduction to FPL's 2022 revenue request by \$154.8 million for new lower depreciation rates and by an additional \$164.2 million in 2023 for new lower depreciation rates on a jurisdictional basis.

OPC Witness Mr. Dunkel proposes an adjustment to FPL's Dismantlement Study. FPL proposes to collect from current customers future retirement costs. Since these costs are being collected up front from customers, FPL has applied a cost of money rate of 3.39% to these dismantlement costs in its net present value calculation. However, based on OPC Witness O'Donnell recommendation, Mr. Dunkel applied a 6.40% overall cost of money (investor sources only) which is the same cost of money that Mr. O'Donnell is recommending be used for FPL as the overall cost of money (investor sources). This adjustment results in a \$16 million reductions in the annual accrual from \$51.0 million to \$35.8 million.

Capital Structure and Incentive Mechanism

Kevin O'Donnell has addressed FPL's excessive equity ratio request of 59.6% equity. As Mr. O'Donnell testifies, FPL's request in this case puts an unnecessary costly burden on FPL's ratepayer - an extra \$24 per year to typical residential customers and \$149,000 for a typical industrial customer-based on a modest reduction of the equity ratio to 55% and should not be allowed. Mr. O'Donnell's examination of capital structures

demonstrates that the FPL proxy group average equity ratio for 2022 is 46.54% and the national average for allowed equity ratios in 2020 is 50.94%. While applying a 50% equity ratio would be more in-line with industry averages (and still more than the equity ratios of both NextEra's consolidated group of 39.5% and the FPL proxy group average), Mr. O'Donnell recommends applying the principle of gradualism. Rather than utilizing FPL's proposed unreasonable, hypothetical capital structure of 59.6% equity, Mr. O'Donnell recommends using a more rational, hypothetical capital structure of 55% equity that results in an approximately \$245 million reduction to FPL's 2022 request.

Mr. O'Donnell briefly addresses the Incentive Mechanism request including the request to expand the program. While the original program was generally understood, there is not sufficient information to understand how the requested expansions of the incentive mechanism would work or if it would benefit customers.

Return on Equity (ROE)

Dr. Woolridge has evaluated FPL's requested ROE in light of current market conditions and the changes since FPL's last rate case. FPL's requested 11% ROE, with a 0.50% ROE inflator, and especially with its requested 59.6% equity ratio, is excessive under current market conditions. Dr. Woolridge notes in his testimony that despite the recent rise in rates, interest rates and capital costs remain at historically low levels. Dr. Woolridge, applying the Discount Cash Flow (DCF) method checked by the Capital Asset Pricing Model (CAPM) method with a proposed capital structure of 55% and also utilizing a comparable electric proxy group, determined that the appropriate ROE for FPL is 8.75%. Dr. Woolridge recommends that if the 59.6% equity ratio is used, then his recommended ROE would be 8.50%.

Reserve Surplus Amortization Mechanism and 4-Year Plan

OPC Witnesses Lawton and Smith both address the RSAM and FPL's proposed 4 year plan. FPL's 4-year plan consist of FPL's request for base rate adjustments in 2022, 2023 and SoBRA increases in 2024 and 2025. FPL's 4-year plan also consist of using FPL Witness Ferguson's longer depreciation lives to create a 1.48 billion reserve surplus to be used in an RSAM to "manage" earnings. Both Witness Lawton and Smith recommend against establishing an RSAM. Mr. Lawton points out that RSAM does not constitute cost-based ratemaking if order by the Commission and is bad regulatory policy. Mr. Smith did an analysis of the RSAM's use during the last settlement period and demonstrated that the RSAM was not needed to meet the mid-point of FPL's range, but rather was used to keep FPL's earning at the high end of the range for the majority of the settlement period.

Based on all OPC witnesses' recommendations, as Witness Smith testifies FPL has excessive revenues in 2022 of \$70.9 million which is \$1.355 billion less that FPL's requested \$1.284 billion request without an RSAM. While Witness Smith finds that based on FPL's 2023 projections and there would be a \$529 million revenue requirement, he does not recommend any rate adjustment due the subsequent test year's inherent unreliability. As Mr. Lawton points out, forecasting into the future which is already subject to uncertainty and FPL's forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls. For these same reasons of inherent unreliability, the SoBRAs should be denied. Thus, a 4-year plan is unwarranted.

ROE Inflator

FPL request for a 0.50% inflator requests to be added to ROE for its good management should be denied. As Mr. Lawton points out that contrary to what FPL would

have the Commission believe, FPL's decisions are not always correct and led to superb customer results and savings such at Woodford gas exploration decision and hedging (both which cost customer's money with little to no benefit to customers). The cumulative four-year revenue requirement to customers of FPL's 50 basis point surplus equity inflator, if this unnecessary expense is allowed, would be an additional \$136.432 million in added profit and an additional \$183.027 of annual revenue requirement.

Other Issues

Mr. Smith recommends reductions for rate case expense, tax-related costs, Scherer Unit 4 and JEA payment, and Incentive Compensation. Mr. Lawton discusses FPL's ability to maintain its financial integrity with the implementation of all OPC recommendations.

Conclusion

Based on this extensive expert review, OPC has determined a rate **decrease** of \$70.9 million is appropriate for 2022, and that no rate increase should be allowed for 2023 or for the SOBAs in 2024 and 2025. Further, the Commission should reject the RSAM and thus the faux 4-year rate plan.

D. STATEMENT OF FACTUAL ISSUES AND POSITIONS

GENERIC ISSUES

ISSUE 1: **Does the Commission have the statutory authority to grant FPL's requested storm cost recovery mechanism?**

OPC: Under the *Wilson* case, the Commission has the authority to allow a tariff to be implemented subject to a full evidentiary hearing. FPL proposes to continue the Storm Cost Recovery Mechanism (SCRM) to allow them to begin collecting a charge based on an amount up to \$4 per 1,000 KWh on

a monthly residential bill for a named tropical storm beginning 60 days after filing a petition for recovery with the Commission. This interim recovery period will last up to 12 months. If costs related to named storms exceed \$800 million in any one year, the Company can ask the Commission to increase the \$4 per 1,000 KWh. They also ask to increase their storm reserve to \$150 million.

Unlike the SCRM in the Settlement between the parties, where the parties agreed not to object to a tariff filing up to \$4 per 1,000 KWh for named storms on an interim basis subject to a full evidential hearing on the cost, FPL's proposal in testimony falls short. First, as written, it asks the Commission to preapprove storm costs up to \$4 per 1,000 KWh. Sections 366.06 and 366.07, F.S., provides for rate changes only "after public hearing" where the Commission has investigated and determine "the actual legitimate costs..." finds that rates are insufficient that then the Commission "by order" can "fix the fair and reasonable rates." There is no statutory basis for pre-approval of a rate increase by the Commission. Second, FPL's proposal as written in testimony does not provide for the protesting of the amount collected which is critical to SCRM as provided for in settlements. Finally, the interim statute section, Section 366.071, F.S., only provides for interim rates based on a showing that utility is earning outside its range of reasonableness which was waived by the parties in settlement. However, the Commission cannot waive this statutory provision, even if the interim rates section were applicable under a storm circumstance.

ISSUE 2: Does the Commission have the statutory authority to approve FPL’s requested Reserve Surplus Amortization Mechanism (RSAM)?

OPC: No, the Commission does not have the ability to establish non-cost-based rates. Recording debits or credits to accumulated depreciation reserve unrelated to recording depreciation to achieve a certain ROE is not only contrary to the definition of the Account 108, previous U.S. Supreme Court rulings have found that the accumulated depreciation reserve “represent the consumption of capital, on a cost basis” and cautions against using depreciation “to the extent, subscribers for the telephone service are required to provide, in effect, capital contributions, not to make good losses incurred by the utility in service rendered, and thus to keep its investment unimpaired, but to secure additional plant and equipment upon which the utility expects a return. See, *Lindheimer v. Illinois Bell Tel. Co.*, 292 US 151 (1934) pp. 168-169. Further, this concept is codified in Florida Statutes, Sections 366.06, F.S., provides that after the Commission has investigated and determined “the actual legitimate costs of the property of each utility company, actually used and useful in the public service,” only the net investment of the honestly and prudently invested actual legitimate costs used and useful, less the accrued depreciation, shall be used for ratemaking purposes. There is no statutory basis for the Commission to include the accrued depreciation for ratemaking purposes. Allowing the RSAM would effectively impact the amount of money FPL is allowed to keep from the established rates during the 4-year term – thus, would be used for ratemaking purposes. Moreover, it would require any of the

RSAM amount used from the accrued depreciation would have to be recollected from future customers. Therefore, using the excess accumulated depreciation a manner that allows them to keep the excess contribution of accumulated depreciation to increase profits allowed by rates is contrary to Supreme Court case law and Florida Statutes.

ISSUE 3: Does the Commission have the statutory authority to approve FPL’s requested Solar Base Rate Adjustment mechanism for 2024 and 2025?

OPC: No. While the Commission “may adopt rules for the determination of rates in full revenue requirement proceeding which rules provide for adjustments of rates based on revenues and costs during the period new rates are to be in effect and for incremental adjustments in rates for subsequent periods,” the Commission has no such rules. See, Section 366.076, F.S. Moreover, Section 366.071, F.S., the interim statute section, only provides for interim rates based on a showing that utility is earning outside its range of reasonableness. Thus, the Commission could grant an interim rate increase only after a showing that the Company is earning outside the range of reasonableness. The Company’s Solar Basis Rate Adjustment proposal would not require the necessary demonstration that they are earning outside the range of reasonableness, thus cannot be approved.

ISSUE 4: Does the Commission have the statutory authority to adjust FPL’s authorized return on equity based on FPL’s performance?

OPC: No. Sections 366.06 and 366.07, F.S., provide for rate changes only “after public hearing” where the Commission has investigated and determine “the

actual legitimate costs...” and finds that rates are insufficient that then the Commission “by order” can “fix the fair and reasonable rates.” There is no statutory basis for the Commission to adjust the authorized return on equity for performance except under Section 366.82(9), F.S. Section 366.82(9), F.S., provides that the Commission is authorized to allow an investor-owned electric utility an additional return on equity of up to 50 basis points for exceeding 20 percent of their annual load-growth through energy efficiency and conservation measures. FPL’s request for additional 50 basis points is not based on exceeding 20% of their annual load-growth through energy efficiency and conservation measures. FPL’s DSM goals which are almost non-existent.

ISSUE 5: Does the Commission have the statutory authority to include non-electric transactions in an asset optimization incentive mechanism?

OPC: No. Under Section 366.05(2) “Every public utility, . . . , which in addition to the production, transmission, delivery or furnishing of heat, light, or power also sells appliances or other merchandise shall keep separate and individual accounts for the sale and profit deriving from such sales. No profit or loss shall be taken into consideration by the commission from the sale of such items in arriving at any rate to be charged for service by any public utility.”

Issue 5(a): Does the commission have the authority to approve FPL’s requested proposal for a federal corporate income tax adjustment that addresses a change in tax if any occurs during or after the pendency of this proceeding?

OPC: No. FPL's request for a tax adjustment for a speculative future tax change premature and thus prohibited based on the Commission's decision in Order No. PSC-2017-0099-PHO-EI as the Commission ruled in identical circumstances in 2017 when speculation was rampant about possible statutory tax rate changes in the absence of passed legislation. As the Commission stated then, and as it stands now, the issue is premature and not ripe for consideration at this time. Should federal tax changes occur in the future, the issue may be addressed at the appropriate time in a separate proceeding.

ISSUE 6: Does the Commission have the statutory authority to grant FPL's requested four-year plan?

OPC: No. Under Section 366.06(2), the Commission finds, upon its own motion or request made by another, that such rates are insufficient to yield reasonable compensation for the services rendered or that such rates yield excessive compensation for services rendered, the Commission shall order and hold a public hearing to determine the just and reasonable rates to be charged. Thus, while parties to a settlement may waive certain rights to seek a rate change for period of time under certain circumstances which the Commission can approve in an order, the Commission cannot waive its own statutory obligations to hold a public hearing on rate change, if requested.

ISSUE 7: Has CLEO Institute, Inc. demonstrated individual and/or associational standing to intervene in this proceeding?

OPC: No position.

ISSUE 8: What impact, if any, does the determination regarding the CLEO Institute Inc.'s associational standing have on its ability to participate in this proceeding?

OPC: No position.

ISSUE 9: Has Floridians Against Increased Rates, Inc. demonstrated individual and/or associational standing to intervene in this proceeding?

OPC: No position.

ISSUE 10: What impact, if any, does the determination regarding Floridians Against Increased Rates, Inc.'s associational standing have on its ability to participate in this proceeding?

OPC: No position.

ISSUE 11: Has Florida Rising, Inc. demonstrated individual and/or associational standing to intervene in this proceeding?

OPC: No position.

ISSUE 12: What impact, if any, does the determination regarding Florida Rising, Inc.'s associational standing have on its ability to participate in this proceeding?

OPC: No position.

***ISSUE 13:** Has Smart Thermostat Coalition demonstrated individual and/or associational standing to intervene in this proceeding?

OPC: No position.

***ISSUE 14¹:** What impact, if any, does the determination regarding Smart Thermostat's associational standing have on its ability to participate in this proceeding?

OPC: No position.

¹ *Issues 13 and 14 may be dropped after an order granting/denying Smart Thermostat Coalition's Petition to Intervene is issued but are listed here as placeholders.

TEST PERIOD AND FORECASTING

ISSUE 15: Is FPL's projected test period of the 12 months ending December 31, 2022, appropriate?

OPC: Yes, with appropriate adjustments. (Smith)

ISSUE 16: Do the facts of this case support the use of a subsequent test year ending December 31, 2023 to adjust base rates?

OPC: No. A subsequent test year is not necessary or good policy. If the test year is chosen appropriately, it should be representative of rates on a going-forward basis, negating the need for another rate adjustment so shortly after the original test year, absent any extraordinary circumstances, which FPL has not shown. FPL has excessive revenues in 2022 of \$70.9 million which is \$1.355 billion less than FPL's requested \$1.284 billion request without an RSAM. While Witness Smith finds that based on FPL's 2023 projections and there would be a \$528.6 million revenue requirement, he does not recommend any rate adjustment due to the subsequent test year's inherent unreliability. (Smith).

ISSUE 17: Has FPL proven any financial need for rate relief in any period subsequent to the projected test period ending December 31, 2022?

OPC: No. FPL has excessive revenues in 2022 of \$70.9 million which is \$1.355 billion less than FPL's requested \$1.284 billion request without an RSAM. While Witness Smith finds that based on FPL's 2023 projections and there would be a \$528.6 million revenue requirement, he does not recommend any rate adjustment due to the subsequent test year's inherent unreliability.

For some reason of inherent unreliability in the forecasting. FPL has failed to demonstrate a need for 2024 and 2025 related to the SoBRAs which should be denied. (Smith).

ISSUE 18: Is FPL’s projected test period of the 12 months ending December 31, 2023, appropriate?

OPC: No. While based on FPL’s 2023 projections there would be a \$528.6 million revenue requirement in 2023 if all FPL forecasts are accurate (which is highly unlikely), there should be no adjustment due the subsequent test year’s inherent unreliability. (Lawton, Smith).

ISSUE 19: Are FPL’s forecasts of Customers, KWh, and KW by Rate Schedule and Revenue Class (including but not limited to forecasts of energy efficiency, conservation, demand-side management, distributed solar and electric vehicle adoption), for the 2022 projected test year appropriate?

OPC: No. FPL’s forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls and forecasting into the future is already subject to uncertainty especially the farther out into the future these forecasts go. However, OPC has utilized FPL’s 2022 forecast without RSAM for the proposed adjustments in this case. (Lawton, Smith)

ISSUE 20: Are FPL’s forecasts of Customers, KWh, and KW by Rate Schedule and Revenue Class (including but not limited to forecasts of energy efficiency, conservation, demand-side management, distributed solar and electric vehicle adoption), for the 2023 projected test year appropriate, if applicable?

OPC: No. FPL’s forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls and forecasting into the future is already subject to uncertainty especially the farther out into the

future these forecasts go. However, OPC has utilized FPL's 2023 forecast without RSAM for the proposed adjustments in this case. (Lawton, Smith)

ISSUE 21: Are FPL's projected revenues from sales of electricity by rate class at present rates for the 2021 prior year and projected 2022 test year appropriate?

OPC: No. FPL's forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls and forecasting into the future is already subject to uncertainty especially the farther out into the future these forecasts go. However, OPC has utilized FPL's 2022 forecast without RSAM for the proposed adjustments in this case. (Lawton, Smith)

ISSUE 22: Are FPL's projected revenues from sales of electricity by rate class at present rates for the projected 2023 test year appropriate, if applicable?

OPC: No. FPL's forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls and forecasting into the future is already subject to uncertainty especially the farther out into the future these forecasts go. However, OPC has utilized FPL's 2023 forecast without RSAM for the proposed adjustments in this case. (Lawton, Smith)

ISSUE 23: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting the 2022 test year budget?

OPC: FPL's forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls and forecasting into the future is already subject to uncertainty especially the farther out into the future these forecasts go. However, OPC has utilized FPL's 2022 forecast without RSAM for the proposed adjustments in this case. (Lawton, Smith)

ISSUE 24: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting the 2023 test year budget, if applicable?

OPC: FPL’s forecasts are based on an extremely volatile economic historic test year of 2020 which is fraught with pitfalls and forecasting into the future is already subject to uncertainty especially the farther out into the future these forecasts go. However, OPC has utilized FPL’s 2023 forecast without RSAM for the proposed adjustments in this case. (Lawton, Smith)

QUALITY OF SERVICE

ISSUE 25: Is the quality of the electric service provided by FPL adequate taking into consideration: a) the efficiency, sufficiency and adequacy of FPL’s facilities provided and the services rendered; b) the cost of providing such services; c) the value of such service to the public; d) the ability of the utility to improve such service and facilities; e) energy conservation and the efficient use of alternative energy resources; and f) any other factors the Commission deems relevant.

OPC: FPL’s quality of service is adequate for general ratemaking purposes. However, FPL’s is not providing service beyond the “superior performance” that FPL ratepayers have already paid for in base rates and which FPL is obligated to provide under the regulatory compact. (Lawton)

DEPRECIATION AND DISMANTLEMENT STUDIES

ISSUE 26: What, if any, are the appropriate capital recovery schedules?

OPC: FPL has the burden to show that its requested capital recovery schedules are reasonable and appropriate. If the Commission determines that a reserves surplus exists and does not incorporate the excess in setting rates using the remaining life methodology, then the excess depreciation reserve,

where appropriate, should be applied to reduce the capital recovery amounts.

ISSUE 27: **Based on FPL’s 2021 Depreciation Study, what are the appropriate depreciation parameters (e.g., service lives, remaining lives, net salvage percentages, and reserve percentages) and resulting depreciation rates for the accounts and subaccounts related to each production unit?**

OPC: The depreciation parameters and resulting depreciation rates are as shown in OPC Witness McCullar’s testimony. (McCullar)

ISSUE 28: **Based on FPL’s 2021 Depreciation Study, what are the appropriate depreciation parameters (e.g., service lives, remaining lives, net salvage percentages, and reserve percentages) and resulting depreciation rates for each transmission, distribution, and general plant account, and subaccounts, if any?**

OPC: The depreciation parameters and resulting depreciation rates are as shown in OPC Witness McCullar’s testimony. (McCullar)

ISSUE 29: **If the Commission approves FPL’s proposed Reserve Surplus Amortization Mechanism (Issue 130), what are the appropriate depreciation parameters (e.g., service lives, remaining lives, net salvage percentages, and reserve percentages) and depreciation rates?**

OPC: The depreciation parameters and resulting whole life depreciation rates as shown in OPC Witness McCullar’s testimony. (McCullar)

ISSUE 30: **Based on the application of the depreciation parameters and resulting depreciation rates that the Commission deems appropriate, and a comparison of the theoretical reserves to the book reserves, what are the resulting imbalances, if any?**

OPC: The depreciation parameters and resulting depreciation rates as shown in OPC Witness McCullar’s testimony results in a reserve surplus of \$638,367,828 which is used in the remaining life depreciation rates as an

adjustment to the depreciation rates to offset any reserve imbalance.
(McCullar)

ISSUE 31: What, if any, corrective reserve measures should be taken with respect to the imbalances identified in Issue 30?

OPC: The reserve surplus of \$638,367,828 should be used in the remaining life depreciation rates as an adjustment to the depreciation rates to offset any reserve imbalance. (McCullar)

ISSUE 32: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

OPC: The new depreciation rates, capital recovery schedules and amortization schedules should be implemented at the same time new base rates go into effect.

ISSUE 33: Should FPL's currently approved annual dismantlement accrual be revised?

OPC: Yes. The dismantlement should be adjusted to use a higher cost of money rate – the same rate OPC recommends be used for FPL – and should be applied to the present value calculation for the dismantlement accrual.
(Dunkel)

ISSUE 34: What, if any, corrective dismantlement reserve measures should be approved?

OPC: Applying the same cost of money to customers, as FPL, results in a decrease in the annual accrual amount of \$16,023,308. (Dunkel)

ISSUE 35: What is the appropriate annual accrual and reserve for dismantlement?

A. For the 2022 projected test year?

OPC: The appropriate annual accrual amount is \$35,891,312. (Dunkel)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate annual accrual amount is \$35,891,312. (Dunkel)

RATE BASE

ISSUE 36: Has FPL made the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation and Working Capital?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation and Working Capital. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation and Working Capital. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 37: What is the appropriate amount of Plant in Service for the Dania Beach Clean Energy Center Unit 7?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its Dania Beach Clean Energy Center Unit 7 costs are properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its Dania Beach Clean Energy Center Unit 7 costs are properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

ISSUE 38: What is the appropriate amount of Plant in Service for the SolarTogether Centers?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its SolarTogether Centers costs are properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its SolarTogether Centers costs are properly recorded on its books and records and reflected in the MFRs.

OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

ISSUE 39: What is the appropriate amount of Plant in Service for FPL’s Battery Storage Pilot projects associated with Paragraph 18 of the 2017 Settlement Agreement approved by Order No. PSC-2016-0560-AS-EI?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its Battery Storage Pilot projects costs are properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its Battery Storage Pilot projects costs are properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

ISSUE 40: Is the North Florida Resiliency Connection reasonable and prudent?

OPC: No. FPL has the burden to show that its requested North Florida Resiliency Connection is reasonable and prudent and FPL present value calculation has failed to take into account all appropriate inputs including costs that will be reimbursed to other utilities and upon FPL/Gulf’s own customers through the fuel clause. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 41: Are FPL’s 2020 through 2023 solar generation additions reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that its 2020 through 2023 solar generation additions and costs are reasonable and prudent and properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 42: Are FPL’s 938 MW Northwest combustion turbine additions in 2022 reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that its 938 MW Northwest combustion turbine additions in 2022 and related costs are reasonable and prudent. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing

ISSUE 43: Are FPL’s combined cycle generation upgrade projects reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that its combined cycle generation upgrade projects and related costs are reasonable and prudent. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 44: Are FPL’s proposed 469 MW of battery storage projects reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that its proposed 469 MW of battery storage projects and related costs are reasonable and prudent. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 45: Should the Commission approve FPL’s proposed hydrogen storage project?

OPC: No. FPL has the burden of demonstrating that its proposed hydrogen storage project and related costs are appropriate for recovery. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 46: Is FPL’s proposed early retirement of the coal assets at Plant Crist on October 15, 2020, as compared to (Original Retirement Date), reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that its proposed early retirement of the coal assets at Plant Crist on October 15, 2020, as compared to (Original Retirement Date), and related costs are reasonable and prudent and properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 47: Is FPL's conversion of Plant Crist Units 4-7 from coal to gas reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that its conversion of Plant Crist Units 4-7 from coal to gas and related costs are reasonable and prudent and properly recorded on its books and records and reflected in the MFRs. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 48: Is FPL's proposed early retirement of the Plant Scherer Unit 4 and related transactions reasonable and prudent?

OPC: No. FPL has the burden of demonstrating that FPL's proposed early retirement of the Plant Scherer Unit 4 and related transactions costs are reasonable and prudent and properly recorded on its books and records and reflected in the MFRs. It is not reasonable or prudent to impose an additional \$100 million to FPL customers for any amounts related to JEA's ownership in Scherer Unit 4.

ISSUE 49: What is the appropriate ratemaking treatment for Consummation Payments made to JEA?

OPC: The Commission should require that any payment to JEA be taken below the line and not charged to customers of FPL and Gulf.

**ISSUE 50: What is the appropriate level of Plant in Service (Fallout Issue)
A. For the 2022 projected test year?**

OPC: The appropriate level of Plant in Service should reflect all adjustments by OPC witnesses.

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate level of Plant in Service should reflect all adjustments by OPC witnesses.

ISSUE 51: What is the appropriate level of Accumulated Depreciation (Fallout Issue)

A. For the 2022 projected test year?

OPC: The appropriate level of Accumulated Depreciation based on the adjustments in OPC Witness McCullar's testimony. m(McCullar, Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate level of Accumulated Depreciation based on the adjustments in OPC Witness McCullar's testimony. m(McCullar, Smith)

ISSUE 52: Are FPL's proposed adjustments to move certain CWIP projects from base rates to the Environmental Cost Recovery Clause appropriate?

A. For the 2022 projected test year?

OPC: No. FPL's proposed adjustments to move certain CWIP projects from base rates to the ECRC should be denied. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing capital items in rate base rather than in cost recovery clauses. However, if an RSAM is approved, then these items should be

true-up to the mid-point in the clauses rather than allowing them to produce earning at the high end of the authorized range.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL's proposed adjustments to move certain CWIP projects from base rates to the ECRC should be denied. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing capital items in rate base rather than in cost recovery clauses. However, if an RSAM is approved, then items should be true-up to the mid-point in the clauses rather than allowing them to produce earning at the high end of the authorized range.

ISSUE 53: Are FPL's proposed adjustments to move certain CWIP projects from base rates to the Energy Conservation Cost Recovery Clause appropriate?

A. For the 2022 projected test year?

OPC: No. FPL's proposed adjustments to move certain CWIP projects from base rates to the ECCR should be denied. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing capital items in rate base rather than in cost recovery clauses. However, if an RSAM is approved, then these items should be true-up to the mid-point in the clauses rather than allowing them to produce earning at the high end of the authorized range.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL's proposed adjustments to move certain CWIP projects from base rates to the ECCR should be denied. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing capital items in rate base rather than in cost recovery clauses. However, if an RSAM is approved, then these items should be true-up to the mid-point of the clauses rather than allowing them to produce earning at the high end of the authorized range.

ISSUE 54: What is the appropriate level of Construction Work in Progress to be included in rate base?

A. For the 2022 projected test year?

OPC: CWIP should not be afforded rate base treatment. CWIP, by its very nature, is plant that is not completed and is not providing service to customers. CWIP is not used or useful in delivering electricity to FPL's customers. Rate base recovery of CWIP should be limited to extraordinary circumstances and removal of CWIP from FPL's rate base will not materially impact FPL's earnings or financial indicators. However, given this Commission's history of allowing CWIP, OPC is not recommending non-interest bearing CWIP be removed from rate base at this time. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: CWIP should not be afforded rate base treatment. CWIP, by its very nature, is plant that is not completed and is not providing service to customers. CWIP is not used or useful in delivering electricity to FPL's

customers. Rate base recovery of CWIP should be limited to extraordinary circumstances and removal of CWIP from FPL's rate base will not materially impact FPL's earnings or financial indicators. However, given this Commission's history of allowing CWIP, OPC is not recommending non-interest bearing CWIP be removed from rate base at this time. (Smith)

ISSUE 55: Are FPL's proposed reserves for Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel Appropriate?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its proposed reserves for Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel are reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its proposed reserves for Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel are reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

ISSUE 56: What is the appropriate level of Nuclear Fuel (NFIP, Nuclear Fuel Assemblies in Reactor, Spent Nuclear Fuel less Accumulated Provision for Amortization of Nuclear Fuel Assemblies, End of Life Materials and Supplies, Nuclear Fuel Last Core)

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its proposed level of Nuclear Fuel (NFIP, Nuclear Fuel Assemblies in Reactor, Spent Nuclear Fuel less

Accumulated Provision for Amortization of Nuclear Fuel Assemblies, End of Life Materials and Supplies, Nuclear Fuel Last Core) are reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its proposed level of Nuclear Fuel (NFIP, Nuclear Fuel Assemblies in Reactor, Spent Nuclear Fuel less Accumulated Provision for Amortization of Nuclear Fuel Assemblies, End of Life Materials and Supplies, Nuclear Fuel Last Core) are reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

ISSUE 57: What is the appropriate level of Property Held for Future Use

A. For the 2022 projected test year?

OPC: FPL has made no showing in their testimony why the PHFFU projects should be included in rate base which are not expected to provide service for more than 10 years after the test year and are reasonably needed to provide reliable service to existing and future customers. However, in their FERC Form-1 filing, FPL showed anticipated in-service dates for each PHFFU items to occur within 10 years. Thus, no adjustment is recommended at this time. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has made no showing in their testimony why the PHFFU projects should be included in rate base which are not expected to provide service for more than 10 years after the test year and are reasonably needed to provide reliable service to existing and future customers. However, in their FERC Form-1 filing showed anticipated in-service dates for each PHFFU items to occur within 10 years. Thus, no adjustment is recommended at this time. (Smith)

ISSUE 58: What is the appropriate level of fossil fuel inventories?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its proposed level of fossil fuel inventories are reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its proposed level of fossil fuel inventories are reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

ISSUE 59: Should the unamortized balance of Rate Case Expense be included in Working Capital and, if so, what is the appropriate amount to include?

A. For the 2022 projected test year?

OPC: No. The Commission should follow its long-standing policy in electric cases of not allowing inclusion of the unamortized rate case expense in rate

base. Consistent with the Commission's findings in the Progress Energy Florida base rate case, the Gulf Power Company base rate case, and FPL's 2010 rate case, it would be unfair for customers to pay a return on the costs incurred by the Company in this case when these are being used to increase customer rates. Working capital should be reduced by the full amount of the unamortized balance of rate case expense of \$4.523 million (corrected). (Smith)

B. If applicable, for the 2023 subsequent projected test year

OPC: No. The Commission should follow its long-standing policy in electric cases of not allowing inclusion of the unamortized rate case expense in rate base. Consistent with the Commission's findings in the Progress Energy Florida base rate cases, the Gulf Power Company base rate case, and FPL's 2010 rate case, it would be unfair for customers to pay a return on the costs incurred by the Company in this case when these are being used to increase customer rates. Working capital should be reduced by the full amount of the unamortized balance of rate case expense of \$4.523 million (corrected). (Smith)

ISSUE 60: What is the appropriate amount of deferred pension debit in working capital for FPL to include in rate base?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its proposed level deferred pension debit in working capital is reasonable and prudent and that the

costs are properly recorded on its books and records and reflected in the MFRs.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its proposed level deferred pension debit in working capital is reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

ISSUE 61: Should the unbilled revenues be included in working capital?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its proposed level unbilled revenues in working capital is reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its proposed level unbilled revenues in working capital is reasonable and prudent and that the costs are properly recorded on its books and records and reflected in the MFRs.

ISSUE 62: What is the appropriate methodology for calculating FPL's Working Capital?

A. For the 2022 projected test year?

OPC: The appropriate method of calculating working capital is the balance sheet method.

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate method of calculating working capital is the balance sheet method.

ISSUE 63: What is the appropriate level of Working Capital (Fallout Issue)?

A. For the 2022 projected test year?

OPC: Based on OPC witness Smith's testimony, 2022 working capital should be reduced by the full amount of the unamortized balance of rate case expense of \$4.523 million (corrected). Other adjustments to working capital may also be appropriate, based on the evidence adduced at hearing. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on OPC witness Smith's testimony, 2022 working capital should be reduced by the full amount of the unamortized balance of rate case expense of \$4.523 million (corrected). Other adjustments to working capital may also be appropriate, based on the evidence adduced at hearing. (Smith)

ISSUE 64: What is the appropriate level of rate base (Fallout Issue)

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, 2022 jurisdictional rate base should be \$55,322.902 million. (Other adjustments to rate base may also be appropriate, based on the evidence adduced at hearing. (Smith, McCullar, Dunkel))

B. If applicable, for the 2023 subsequent projected test year

OPC: Based on the testimony of OPC witnesses, 2023 jurisdictional rate base should be \$59,333.114 million. (Other adjustments to rate base may also be appropriate, based on the evidence adduced at hearing. (Smith, McCullar, Dunkel))

COST OF CAPITAL

ISSUE 65: What is the appropriate amount of accumulated deferred taxes to include in the capital structure and should a proration adjustment to deferred taxes be included in capital structure?

A. For the 2022 projected test year?

OPC: The ADIT in the capital structure should be adjusted to the amounts shown in Exhibit RCS-2, Schedule D. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The ADIT in the capital structure should be adjusted to the amounts shown in Exhibit RCS-3, Schedule D. (Smith)

ISSUE 66: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

A. For the 2022 projected test year?

OPC: The appropriate 2022 amount of unamortized ITCs included in the capital structure is \$1,039.683 million and the cost rate is 6.48% per Exhibit RCS-2, Schedule D. Other adjustments to ITCs may also be appropriate, based on the evidence adduced at hearing. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate 2023 amount of unamortized ITCs included in the capital structure is \$1,200.157 million and the cost rate is 6.56% per Exhibit RCS-3, Schedule D. Other adjustments to ITCs may also be appropriate, based on the evidence adduced at hearing. (Smith)

ISSUE 67: What is the appropriate amount and cost rate for short-term debt to include in the capital structure?

A. For the 2022 projected test year?

OPC: The appropriate cost rate for short-term debt is 0.94%. The amount and cost rate are shown on Exhibit RCS-2, Schedule D. (Smith, O'Donnell)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate cost rate for short-term debt is 0.97%. The amount and cost rate are shown on Exhibit RCS-3, Schedule D. (Smith, O'Donnell)

ISSUE 68: What is the appropriate amount and cost rate for long-term debt to include in the capital structure?

A. For the 2022 projected test year?

OPC: The appropriate cost rate for long term debt is 3.61%. The amount and cost rate are shown on Exhibit RCS-2, Schedule D. (Smith, O'Donnell)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate cost rate for long term debt is 3.77%. The amount and cost rate are shown on Exhibit RCS-3, Schedule D. (Smith, O'Donnell)

ISSUE 69: What is the appropriate amount and cost rate for customer deposits to include in the capital structure?

A. For the 2022 projected test year?

OPC: Per OPC adjustments, the appropriate amount of 2022 customer deposits is \$453.428 million, after adjustments to reconcile the capital structure to rate base. The appropriate cost rate for customer deposit is 2.03%. The amount and cost rate are shown on Exhibit RCS-2, Schedule D. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Per OPC adjustments, the appropriate amount of 2023 customer deposits is \$487.887 million, after adjustments to reconcile the capital structure to rate base. The appropriate cost rate for customer deposit is 2.04%. The amount and cost rate are shown on Exhibit RCS-3, Schedule D. (Smith)

ISSUE 70: What is the appropriate equity ratio to use in the capital structure for ratemaking purposes?

A. For the 2022 projected test year?

OPC: The appropriate equity ratio is 55% for the 2022 projected test year. FPL's bloated 59.6% equity ratio request in this case puts an unnecessary cost burden on FPL's ratepayer - an extra \$24 per year to typical residential customers - and should be rejected. The FPL proxy group average equity ratio is 46.54% for 2022 and the national average for allowed equity ratios is 50.94% for 2020. Rather than utilizing FPL's proposed hypothetical capital structure of 59.6% equity, OPC recommends using a more rational, hypothetical capital structure of 55% equity. Applying a 55% equity ratio, which is gradually moving FPL's equity ratio more in-line with industry

averages (and still more than the equity ratios of both NextEra's consolidated group and the FPL proxy group average), results in an approximately \$245 million reduction to FPL's 2022 request. (O'Donnell) In the context of the total capital structure for ratemaking purposes, the equity ratio is 44.32% as shown on Exhibit RCS-2, Schedule D. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate equity ratio is 55% for the 2023 subsequent projected test year. FPL's bloated 59.6% equity ratio request in this case puts an unnecessary costly burden on FPL's ratepayer and should not be allowed. The FPL proxy group average equity ratio is 46.54% for 2022 and the national average for allowed equity ratios is 50.94% for 2020. Rather than utilizing FPL's proposed equity-fattened capital structure of 59.6% equity, OPC recommends gradually moving FPL's equity ratio to a more rational, hypothetical capital structure of 55% equity. (O'Donnell) In the context of the total capital structure, the equity ratio is 44.50% as shown on Exhibit RCS-3, Schedule D. (Smith)

ISSUE 71: Should FPL's request for a 50 basis point performance incentive to the authorized return on equity be approved?

OPC: No, the outlandish surplus ROE inflator should be rejected. FPL claims that its "superior value proposition" justifies a 50 basis point ROE "booster." FPL's is not providing service beyond what FPL ratepayers have already paid for in base rates and which FPL is obligated to provide under the regulatory compact. The cumulative four-year revenue

requirement to customers of FPL's 50 basis point surplus equity inflator, if this unnecessary expense is allowed, would be an additional \$136.432 million in added profit and an additional \$183.027 of annual revenue requirement. (Lawton)

ISSUE 72: What is the appropriate authorized return on equity (ROE) to use in establishing FPL's revenue requirement?

A. For the 2022 projected test year?

OPC: The appropriate ROE is 8.75%. FPL's requested 11% ROE with a 0.50% surplus ROE inflator and a 59.6% equity ratio is extravagant and excessive under current market conditions. Both interest rates and awarded ROEs have remained low since 2016. After applying the Discount Cash Flow (DCF) method checked by the Capital Asset Pricing Model (CAPM) with a proposed capital structure of 55% and also applying the electric proxy groups, the appropriate ROE for FPL is 8.75%. If the Commission grants the 59.6% equity ratio then the appropriate ROE is 8.5%. (Woolridge)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate ROE is 8.75%. FPL's requested 11% ROE with a 0.50% surplus ROE inflator and a 59.6% equity ratio is extravagant and excessive under current market conditions. Both interest rates and awarded ROEs have remained low since 2016. After applying the Discount Cash Flow (DCF) method checked by the Capital Asset Pricing Model (CAPM) with a proposed capital structure of 55% and also applying the electric proxy groups, the appropriate ROE for FPL is 8.75%. If the Commission grants the 59.6% equity ratio then the appropriate ROE is 8.5%. (Woolridge)

ISSUE 73: What is the appropriate weighted average cost of capital to use in establishing FPL's revenue requirement? (Fallout Issue)

A. For the 2022 projected test year?

OPC: The weighted average cost of capital is 5.29% as shown on Exhibit RCS-2, Schedule D. Pursuant to the standards set forth in Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) ("Bluefield") and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) ("Hope") that financial integrity should be sufficient to attract capital on reasonable terms under a variety of market and economic conditions, FPL will maintain its financial integrity under OPC's recommended capital structure of 8.75% equity return with a 45% debt/55% equity capital structure with a 5.29% overall rate of return. (O'Donnell, Woolridge, Lawton, Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The weighted average cost of capital of 5.38% as shown on Exhibit RCS-3, Schedule D. Pursuant to the standards set forth in Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679 (1923) ("Bluefield") and Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591 (1944) ("Hope") that financial integrity should be sufficient to attract capital on reasonable terms under a variety of market and economic conditions, FPL will maintain its financial integrity under OPC's recommended capital structure of 8.75% equity return with a 45% debt/55% equity capital structure with a 5.38% overall rate of return. (O'Donnell, Woolridge, Lawton, Smith)

NET OPERATING INCOME

ISSUE 74: **What are the appropriate projected amounts of Other Operating Revenues?**

A. For the 2022 projected test year?

OPC: The appropriate projected amounts of Other Operating Revenues per OPC adjustments for the 2022 projected test year is \$231.990 million. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate projected amounts of Other Operating Revenues per OPC adjustments for the 2023 projected test year is \$226.049 million. (Smith)

ISSUE 75: **Has FPL appropriately accounted for SolarTogether Program subscription charges?**

A. For the 2022 projected test year?

OPC: No. FPL has the burden of demonstrating that FPL appropriately accounted for SolarTogether Program subscription charges. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL has the burden of demonstrating that FPL appropriately accounted for SolarTogether Program subscription charges. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 76: What is the appropriate level of Total Operating Revenues?

A. For the 2022 projected test year?

OPC: The appropriate projected amounts of Total Operating Revenues per OPC adjustments for the 2022 projected test year is \$7,947.230 million. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate projected amounts of Total Operating Revenues per OPC adjustments for the 2023 projected test year is \$8,005.469 million. (Smith)

ISSUE 77: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?

A. For the 2022 projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause.

ISSUE 78: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?

A. For the 2022 projected test year?

OPC: No. FPL has the burden of demonstrating that if appropriately removed capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause.

ISSUE 79: **Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?**

A. For the 2022 projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause.

ISSUE 80: **Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Energy Conservation Cost Recovery Clause?**

A. For the 2022 projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed conservation revenues and conservation expenses recoverable through the Energy Conservation Cost Recovery Clause.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed conservation revenues and conservation expenses recoverable through the Energy Conservation Cost Recovery Clause.

ISSUE 81: Has FPL made the appropriate adjustments to remove all revenues and expenses recoverable through the Storm Protection Plan Cost Recovery Clause

A. For the 2022 projected test year?

OPC: No. FPL does not appear to have removed all related vegetation management costs to the SPP. An adjustment to remove vegetation expense from the operating expense being used to set FPL's base rate revenue requirements of \$3.230 million should be made. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL does not appear to have removed all related vegetation management costs to the SPP. An adjustment to remove vegetation expense from the operating expense being used to set FPL's base rate revenue requirements of \$3.230 million should be made. (Smith)

ISSUE 82: Has FPL made the appropriate adjustments to remove all non-utility activities from operating revenues and operating expenses?

A. For the 2022 projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed all non-utility activities from operating revenues and operating expenses.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No. FPL has the burden of demonstrating that it appropriately removed all non-utility activities from operating revenues and operating expenses.

ISSUE 83: **What is the appropriate percentage value (or other assignment value or methodology basis) to allocate FPL shared corporate services costs and/or expenses to its affiliates?**

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that it has made the appropriate test year adjustments to reflect the appropriate percentage value (or other assignment value or methodology basis) to allocate FPL shared corporate services costs and/or expenses to its affiliates.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that it has made the appropriate test year adjustments to reflect the appropriate percentage value (or other assignment value or methodology basis) to allocate FPL shared corporate services costs and/or expenses to its affiliates.

ISSUE 84: **What is the appropriate amount of FPL shared corporate services costs and/or expenses (including executive compensation and benefits) to be allocated to affiliates?**

A. For the 2022 projected test year?

OPC: FPL should make OPC executive compensation adjustments and incorporate those adjustments in any allocations applicable to shared corporate services costs. Moreover, FPL has the burden of demonstrating that it has made the appropriate test year adjustments to reflect the appropriate amount of FPL shared corporate services costs and/or expenses (including executive compensation and benefits) to be allocated to affiliates. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL should make OPC executive compensation adjustments and incorporate those adjustments in any allocations applicable to shared corporate services costs. Moreover, FPL has the burden of demonstrating that it has made the appropriate test year adjustments to reflect the appropriate amount of FPL shared corporate services costs and/or expenses (including executive compensation and benefits) to be allocated to affiliates. (Smith)

ISSUE 85: Should any adjustments be made to FPL’s operating revenues or operating expenses for the effects of transactions with affiliated companies?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that it has made the appropriate test year adjustments to FPL’s operating revenues or operating expenses for the effects of transactions with affiliated companies.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that it has made the appropriate test year adjustments to FPL's operating revenues or operating expenses for the effects of transactions with affiliated companies.

ISSUE 86: What is the appropriate level of generation overhaul expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that it has the appropriate level of generation overhaul expense.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that it has the appropriate level of generation overhaul expense.

ISSUE 87: What is the appropriate amount of FPL's production plant O&M expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its production plant O&M expenses are reasonable.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its production plant O&M expenses are reasonable.

ISSUE 88: What is the appropriate amount of FPL's transmission O&M expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its transmission O&M expenses are reasonable.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its transmission O&M expenses are reasonable.

ISSUE 89: What is the appropriate amount of FPL’s distribution O&M expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its distribution O&M expenses are reasonable.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its distribution O&M expenses are reasonable.

ISSUE 90: What is the appropriate annual storm damage accrual and storm damage reserve?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its storm damage reserve is reasonable. The appropriate level should be no greater than what FPL has requested in its Petition and direct testimony if the SCRM is not approved. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its storm damage reserve is reasonable. The appropriate level should be no greater than what FPL has requested in its Petition and direct testimony if the SCRM is not approved. OPC is not proposing an adjustment prior to hearing but may propose an adjustment based on evidence adduced at hearing.

ISSUE 91: What is the appropriate amount of Other Post Employment Benefits expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its Other Post Employment Benefits expenses are reasonable.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its Other Post Employment Benefits expenses are reasonable.

ISSUE 92: What is the appropriate amount of Salaries and Employee Benefits expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its salaries and employee benefits expenses are reasonable. OPC is not proposing an adjustment prior to hearing, but may propose an adjustment based on evidence adduced at hearing.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its salaries and employee benefits expenses are reasonable. OPC is not proposing an adjustment prior to

hearing, but may propose an adjustment based on evidence adduced at hearing.

ISSUE 93: What is the appropriate amount of Incentive Compensation Expense to include in O&M expense?

A. For the 2022 projected test year?

OPC: There is an inconsistency in the amount of Incentive Compensation Expense removed in the 2010 rate case decision and the amount proposed to be removed in this case which is claimed to be consistent with the 2010 decision. OPC had outstanding discovery on the matter at the time OPC testimony was filed. OPC is not proposing a numeric adjustment prior to hearing, but based on discovery response and rebuttal intends to propose an adjustment based on evidence adduced at hearing. Incentive Compensation Expense relate to Construction Project Performance should be reduced by the amount specified in Mr. Smith testimony which is confidential. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: There is an inconsistency in the amount of Incentive Compensation Expense removed in the 2010 rate case decision and the amount proposed to be removed in this case which is claimed to be consistent with the 2010 decision. OPC had outstanding discovery on the matter at the time OPC testimony was filed. OPC is not proposing a numeric adjustment prior to hearing, but based on discovery response and rebuttal intends to propose an adjustment based on evidence adduced at hearing. Incentive Compensation Expense relate to Construction Project Performance should

be reduced by the amount specified in Mr. Smith testimony which is confidential. (Smith)

ISSUE 94: What is the appropriate amount of Pension Expense?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its pension expenses are reasonable.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its pension expenses are reasonable.

ISSUE 95: Should an adjustment be made to the amount of the Directors and Officers Liability Insurance expense that FPL included in the 2022 and, if applicable, 2023 projected test year(s)?

OPC: Yes. The Commission should reduce Directors and Officers Liability Insurance expense consistent with Commission precedent that allocates the cost evenly between shareholders and ratepayers. (Smith)

ISSUE 96: What is the appropriate amount and amortization period for Rate Case Expense?

A. For the 2022 projected test year?

OPC: The increase in rate case expense due to the complexity of the FPL's request for multi-year adjustments and SoBRAs are not reasonable and should not be borne by ratepayer. OPC is not proposing a numeric

adjustment prior to hearing but intends to propose a numeric adjustment based on evidence adduced at hearing. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The increase in rate case expense due to the complexity of the FPL's request for multi-year adjustments and SoBRAs are not reasonable and should not be borne by ratepayer. OPC is not proposing a numeric adjustment prior to hearing but intends to propose a numeric adjustment based on evidence adduced at hearing. (Smith)

ISSUE 97: What is the appropriate amount of uncollectible expense and bad debt rate?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its uncollectible expense and bad debt rate are reasonable. Any incremental amount of uncollectible expense in the historic test year of 2020 related to the Covid-19 pandemic should be excluded from the projected test years.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its uncollectible expense and bad debt rate are reasonable. Any incremental amount of uncollectible expense in the historic test year of 2020 related to the Covid-19 pandemic should be excluded from the projected test years.

ISSUE 98: What are the appropriate expense accruals for: (1) end of life materials and supplies and 2) last core nuclear fuel?

A. For the 2022 projected test year?

OPC: FPL has the burden of demonstrating that its expense accruals for: (1) end of life materials and supplies and (2) last core nuclear fuel are reasonable.

B. If applicable, for the 2023 subsequent projected test year?

OPC: FPL has the burden of demonstrating that its expense accruals for: (1) end of life materials and supplies and (2) last core nuclear fuel are reasonable.

ISSUE 99: What is the appropriate level of O&M Expense (Fallout Issue?)

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of O&M expenses is \$1,330.302 million for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of O&M expenses is \$1,348.365 million for the 2023 test year. (Smith)

ISSUE 100: What is the appropriate amount of depreciation, amortization, and fossil dismantlement expense? (Fallout Issue)

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of depreciation, amortization, and fossil dismantlement expenses is \$2,288.845 million for the 2022 test year. (McCullar, Dunkel, Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of depreciation, amortization, and fossil dismantlement expenses is \$2,484.066 million for the 2023 test year. (McCullar, Dunkel, Smith)

ISSUE 101: What is the appropriate level of Taxes Other Than Income (Fallout issue?)

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of taxes other than income is \$787.746 million for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of taxes other than income is \$859.601 million for the 2023 test year. (Smith)

ISSUE 102: What is the appropriate level of Income Taxes?

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of income taxes is \$541.032 million for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of income taxes is \$445.285 million for the 2023 test year. (Smith)

ISSUE 103: What is the appropriate level of (Gain)/Loss on Disposal of utility property?

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of (Gain)/Loss on Disposal of utility property is \$(482,000) for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of (Gain)/Loss on Disposal of utility property is \$(239,000) for the 2023 test year. (Smith)

ISSUE 104: What is the appropriate level of Total Operating Expenses? (Fallout Issue)

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of Total Operating Expenses is \$4,968.053 million for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of Total Operating Expenses is \$5,157.082 million for the 2023 test year. (Smith)

ISSUE 105: What is the appropriate level of Net Operating Income (Fallout Issue?)

A. For the 2022 projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of Net Operating Income is \$2,979.177 million for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: Based on the testimony of OPC witnesses, the appropriate level of Net Operating Income is \$2,848.387 million for the 2023 test year. (Smith)

REVENUE REQUIREMENTS

ISSUE 106: What are the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for FPL?

A. For the 2022 projected test year?

OPC: The appropriate revenue expansion factor is 0.74547 for the 2022 test year. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate revenue expansion factor is 0.74552 for the 2023 test year. (Smith)

ISSUE 107: What is the appropriate annual operating revenue increase or decrease (Fallout Issue)?

A. For the 2022 projected test year?

OPC: The appropriate annual revenue decrease is \$70.901 million for the 2022 test year without the RSAM. (Smith)

B. If applicable, for the 2023 subsequent projected test year?

OPC: The appropriate annual revenue increase is \$457.218 million for the 2023 test year without the RSAM. (Smith)

COST OF SERVICE AND RATE DESIGN ISSUES

ISSUE 108: Should FPL’s proposal for a consolidated cost of service and unified tariffs and rates for FPL and the former Gulf Power Company’s customers be approved?

OPC: No position at this time.

ISSUE 109: Should the proposed transition rider charges and transition rider credits for the years 2022 through 2026 be approved?

OPC: If the Commission approves consolidated cost of serve and unified tariffs and rates for FPL and Gulf, then any transition rider charges and credits should reflect any adjustments to this base rate case revenue requirement, as applicable.

ISSUE 110: Is FPL’s proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?

A. For the 2022 projected test year?

OPC: No position at this time.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No position at this time.

ISSUE 111: What is the appropriate methodology to allocate production, transmission, and distribution costs to the rate classes?

A. For the 2022 projected test year?

OPC: No position at this time.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No position at this time.

ISSUE 112: How should the change in revenue requirement be allocated to the customer classes?

A. For the 2022 projected test year?

OPC: The revenue requirement approved by the Commission should be applied in accordance with the Commission's long-standing practice that in designing new rates: (1) to the extent possible, consistent with other parameters, the revenue increase should be allocated so as to bring all rate classes as close to parity as practicable; (2) no class should receive an increase greater than 1.5 times the system average increase in total; and (3) no class should receive a decrease. See, Order No. PSC-0283-FO-EI at pp. 86-87.

B. If applicable, for the 2023 subsequent projected test year?

OPC: The revenue requirement approved by the Commission should be applied in accordance with the Commission's long-standing practice that in designing new rates: (1) to the extent possible, consistent with other parameters, the revenue increase should be allocated so as to bring all rate classes as close to parity as practicable; (2) no class should receive an

increase greater than 1.5 times the system average increase in total; and (3) no class should receive a decrease. See, Order No. PSC-0283-FO-EI at pp. 86-87.

ISSUE 113: What are the appropriate service charges (initial connection, reconnect for nonpayment, connection of existing account, field visit, temporary overhead and underground, late payment charge, meter tampering)?

A. For the 2022 projected test year?

OPC: No position at this time.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No position at this time.

ISSUE 114: Should FPL's proposed revisions to the underground electric distribution tariffs for residential subdivisions and commercial customers be approved?

OPC: No position at this time.

ISSUE 115: Should FPL's proposal to eliminate the Governmental Adjustment Factor (GAF) waiver (Tariff Sheet No. 6.300) be approved?

OPC: No position at this time.

ISSUE 116: Should FPL retain the existing Gulf Power Real-Time Pricing (RTP) rate for customers and expand it to be offered for customers in the combined FPL and Gulf Power systems?

OPC: No position at this time.

ISSUE 117: Should FPL's proposed new Economic Development Rider (Original Tariff Sheet Nos. 8.802 – 8.802-1) be approved?

OPC: No position at this time.

ISSUE 118: Should FPL’s proposal to increase the cap from 300 to 1,000 megawatts and from 50 to 75 contracts for the Commercial/Industrial Service Rider (CISR) be approved?

OPC: No position at this time.

ISSUE 119: Should FPL’s proposal to cancel Gulf’s Community Solar (CS) rider be approved?

OPC: No position at this time.

ISSUE 120: What is the appropriate monthly credit for Commercial/Industrial Demand Reduction (CDR) Rider customers effective January 1, 2022?

OPC: No position at this time.

ISSUE 121: Should FPL’s proposal to add a maximum demand charge to the commercial/industrial time-of-use rate schedules be approved?

OPC: No position at this time.

ISSUE 122: What are the appropriate base charges (formerly customer charges) (Fallout Issue)?

A. For the 2022 projected test year?

OPC: The appropriate base charges should be based on OPC’s recommend revenue requirement and rates that implement the Commission’s long-standing practice for establishing new rates as stated in Issue 112.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No charge is appropriate for 2023.

ISSUE 123: What are the appropriate demand charges (Fallout Issue)

A. For the 2022 projected test year?

OPC: The appropriate demand charges should be based on OPC's recommend revenue requirement and rates that implement the Commission's long-standing practice for establishing new rates as stated in Issue 112.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No charge is appropriate for 2023.

ISSUE 124: What are the appropriate energy charges (Fallout Issue)

A. For the 2022 projected test year?

OPC: The appropriate energy charges should be based on OPC's recommend revenue requirement and rates that implement the Commission's long-standing practice for establishing new rates as stated in Issue 112.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No charge is appropriate for 2023.

ISSUE 125: What are the appropriate charges for the Standby and Supplemental Services (SST-1, ISST-1) rate schedules (Fallout Issue)

A. For the 2022 projected test year?

OPC: No position at this time.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No position at this time.

ISSUE 126: What are the appropriate charges for the Commercial Industrial Load Control (CILC) rate schedule (Fallout Issue)?

A. For the 2022 projected test year?

OPC: No position at this time.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No position at this time.

ISSUE 127: What are the appropriate lighting rate charges (Fallout Issue)?

A. For the 2022 projected test year?

OPC: No position at this time.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No position at this time.

ISSUE 128: Should the Commission give staff administrative authority to approve tariffs reflecting Commission approved rates and charges?

OPC: No position at this time.

ISSUE 129: What are the effective dates of FPL's proposed rates and charges?

A. For the 2022 projected test year?

OPC: The effective dates for FPL's proposed rates and charges as adjusted by OPC's recommendations should be after January 1, 2022.

B. If applicable, for the 2023 subsequent projected test year?

OPC: No charge is appropriate for 2023.

OTHER ISSUES

ISSUE 130: Should the Commission approve FPL's requested Reserve Surplus Amortization Mechanism (RSAM)?

OPC: No. The creation of an RSAM by the Commission is not permissible legally as discussed in prior Issue 2. Mr. Lawton points out that RSAM does not constitute cost-based ratemaking if ordered by the Commission and is bad regulatory policy. FPL's RSAM proposal is actually a taking of customer's assets (i.e., excess of the customer's monies paid toward depreciation) to be used to enhance shareholder profits. The RSAM has been used historically to enhance shareholder returns causing customer to incur more costs in the future resulting in hundreds of millions of additional costs. The Commission should not be adopting a policy that encourages manipulation of depreciation studies by Companies to create depreciation reserves to be used to siphon off customer monies to shareholders. Further, the Commission should not be adopting a policy through creation of a RSAM that would allow a company to manage their earnings levels to keep them in the range without a termination point like in a Settlement, which would unintentionally limit the Commission's and other parties' ability to review FPL's rates in the future by creating a self-regulating mechanism. Mr. Smith did an analysis of the RSAM's use during the last settlement period and demonstrated that the RSAM was not needed to meet the mid-point of FPL's range, but rather was used to keep

FPL's earning at the high end of the range for the majority of the settlement period. (Lawton, Smith)

ISSUE 131: **Should the Commission approve FPL's request for variable capital recovery for retired assets such that the total amortization over the four year period ended December 31, 2025 is equal to the sum of the amortization expense for 2022-2025?**

OPC: No. The Commission should apply a straight-line amortization over the four-year period ended December 31, 2025 for the capital recovery for retired assets amortization expense for 2022-2025.

ISSUE 132: **Should the Commission approve FPL's requested asset optimization incentive mechanism?**

OPC: No. While the activities approved by the Commission in the original pilot program are well understood, there is insufficient information to understand how the requested expansions of the incentive mechanism would work or if it would benefit customers. (O'Donnell)

ISSUE 133: **Should the Commission approve FPL's requested Solar Base Rate Adjustment mechanisms in 2024 and 2025 for a total of 1,788 MW?**

OPC: No. FPL has not demonstrated a need for limited adjustments in 2024 and 2025 for new solar additions. The historical test year upon which the forecasts and projections are based was an extremely volatile historical test year due to the COVID-19 pandemic which virtually shut down large segments of the economy. Relying on 2020 as the historical test year beyond 2022 to multiple test years is fraught with pitfalls. The Commission should decline to employ any rate adjustments beyond the 2022 forecasted test year, like was done after the subprime mortgage crisis

of 2008-2009. As that Commission noted as one reaches farther into the future, predictions and projections of future economic conditions become less certain and more subject to the vagaries of changing variable. See, PSC-10-0153-FOF-EI at page 10.

In addition, the Commission has expressed concerns that a SoBRA type mechanism does not afford them the level of economic oversight as can be done in a traditional rate case proceeding. *Id.* The Commission has also noted that a substantial portion of FPL's total revenue requirement (61%) flows through a pass-through mechanism, so another non-traditional rate making mechanism or pass through may not provide any advantage or benefits. Now, there is the SPP cost recovery clause for storm hardening capital improvements. Any benefits of a SoBRA mechanism does not outweigh the risk to customers. The Company can file for a rate case if economic conditions in 2024 and 2025 warrant. Moreover, FPL has not demonstrated that a 2024 or 2025 base rate increase is necessary to keep FPL from falling below the low point of its authorized range. (Lawton, Smith)

ISSUE 134: Should the Commission approve FPL's requested Storm Cost Recovery mechanism?

OPC: No, the Commission should not approve a SCRM as proposed by FPL. FPL proposes to continue the Storm Cost Recovery Mechanism (SCRM) to allow them to begin collecting a charge based on an amount up to \$4 per 1,000 KWh on a monthly residential bill for a named tropical storm beginning 60 days after filing a petition for recovery with the Commission.

This interim recovery period will last up to 12 months. If costs related to named storms exceed \$800 million in any one year, the Company can ask the Commission to increase the \$4 per 1,000KWh. They also ask to increase their storm reserve to \$150 million. As discussed in Issue 1, FPL's proposal is legally problematic.

However, if the Commission as a matter of policy decides to adopt a scheme that is legally permissible, then clarifications for the customers' benefit should be made. The current framework prescribed by the 2016 Rate Settlement generally is sufficient, however, it should be modified to add safeguards. The Company should have the recovery subject to a level that is limited to major, named storms as defined by the National Hurricane Center, not just any storm. Further, the language "that any proceeding to recover costs associated with any storm shall not be a vehicle for a "rate case" type inquiry concerning the expenses, investment, or financial results of operations of the Company and shall not apply any form of earnings test or measure or consider previous or current base rate earnings or level of theoretical depreciation reserve" should be clarified. If the Company chooses to implement tariff for recovery of storm cost and the Commission permits it to go into effect within 60 days that Parties shall be granted a full evidentiary hearing within a reasonable time period on the recoverable costs subject to an earnings test for recoverable costs. Moreover, the intent of including this language in the settlements was not and should not be memorialized by the language in the proposal to limit legitimate inquiry into the reasonableness and prudence of the costs that the Company claims to have incurred in storm damage repair and restoration activities. The Commission should ensure in any order

approving the mechanism outside of a settlement that a full opportunity to test and challenge costs will be provided in the time that is needed since the company will be allowed to receive expedited interim recovery of costs. However, under no circumstance should FPL be allowed to ever again charge storm recovery costs against the depreciation reserve surplus or to use an RSAM for recovery of storm costs. (Smith),

ISSUE 135: Should the Commission approve FPL’s proposal for addressing a change in tax law, if any that occurs during or after the pendency of this proceeding?

OPC: No. The Commission cannot even lawfully entertain the proposal under commission precedent. Furthermore, there is no pending legislation as such any proposal is premature and speculative. (Smith)

ISSUE 136: Should the Commission authorize FPL to accelerate unprotected accumulated excess deferred income tax amortization in the incremental amounts of \$81 million in 2024 and \$81 million in 2025 or for other amounts in the years 2022 through 2025?

OPC: The EDIT should be accelerated into 2022 and 2023 to offset any revenue requirement. (Smith)

ISSUE 137: Should the Commission approve FPL’s requested four year plan?

OPC: No. FPL’s 4-year rate plan is ephemeral at best. Given that the 4-year plan is only based on the Commission granting FPL request without modification or non-substantive modification, the Commission should ignore this “offer” as it is meaningless. While the Commission could accept FPL’s offer to stay out as proposed, with any modifications it is likely that FPL’s offer would be withdrawn. It is doubtful that the

Commission could order the Company not to file a rate case if they were to be outside the range. So, this “offer” is illusory.

ISSUE 138: **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?**

OPC: No position at this time.

ISSUE 139: **Should this docket be closed?**

OPC: No position at this time.

CONTESTED ISSUES

OPC

ISSUE A: **Has FPL proven any financial need for single-issue rate relief in 2024 and 2025, based upon only the additional costs associated with FPL’s request for Solar Base Rate Adjustments in 2024 and 2025, and with no offsets for anticipated load and revenue growth forecast to occur in 2024 and 2025?**

OPC: No. FPL has not demonstrated a need for limited adjustments in 2024 and 2025 for new solar additions. The historical test year upon which the forecasts and projections are based was an extremely volatile historical test year due to the COVID-19 pandemic which virtually shut down large segments of the economy. Relying on 2020 as the historical test year beyond 2022 to multiple test years is fraught with pitfalls. The Commission should decline to employ any rate adjustments beyond the 2022 forecasted test year, like was done after the subprime mortgage crisis of 2008-2009. Moreover, FPL has not demonstrated that a 2024 or 2025

base rate increase is necessary to keep FPL from falling below the low point of its authorized range. (Lawton, Smith)

CLEO/VOTE SOLAR

ISSUE B: Did FPL consider all reasonable, cost-effective alternatives to its proposed investments?

OPC: FPL has the burden of demonstrating that all reasonable, cost-effective alternatives to its proposed investments were considered.

ISSUE C: Do FPL's proposed investments ensure adequate fuel diversity and fuel supply reliability of the electric grid?

OPC: FPL has the burden of demonstrating that its proposed investments ensure adequate fuel diversity and fuel supply reliability of the electric grid.

ISSUE D: Are FPL's T&D capital expenditures for growth reasonable and prudent?

OPC: FPL has the burden of demonstrating that its T&D capital expenditures for growth are reasonable and prudent.

ISSUE E: Are FPL's T&D capital expenditures for reliability/grid modernization reasonable and prudent?

OPC: FPL has the burden of demonstrating that its T&D capital expenditures for reliability/grid modernization are reasonable and prudent.

ISSUE F: In consideration of FPL's performance pursuant to ss. 366.80-366.83 and 403.519, F.S., should there be any adjustments to FPL's rates, per F.S. 366.82?

OPC: No. There is no statutory basis for the Commission to adjust the authorized return on equity for performance except under Section 366.82(9), F.S.

Section 366.82(9), F.S., provides that the Commission is authorized to allow an investor-owned electric utility an additional return on equity of up to 50 basis points for exceeding 20 percent of their annual load-growth through energy efficiency and conservation measures. FPL's request for additional 50 basis points is not based on exceeding 20% of their annual load-growth through energy efficiency and conservation measures. FPL's DSM goals which are almost non-existent.

ISSUE G: **Does FPL make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect, in violation of F.S. 366.03?**

OPC: FPL has the burden of demonstrating that it does not make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect, in violation of F.S. 366.03.

ISSUE H: **Has FPL established fair, just and reasonable rates and charges, taking into consideration the cost of providing service to the class, as well as the rate history, value of service, and experience of FPL; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures, in compliance with F.S. 366.05(1)(a), 366.06(1) and (2)?**

OPC: FPL has the burden of demonstrating that it established fair, just and reasonable rates and charges, taking into consideration the cost of providing service to the class, as well as the rate history, value of service, and experience of FPL; the consumption and load characteristics of the various classes of customers; and public acceptance of rate structures, in compliance with F.S. 366.05(1)(a), 366.06(1) and (2).

FIPUG

ISSUE I: Are the proposed SOBRA additions in years 2024 and 2025 piecemeal ratemaking?

OPC: Yes.

ISSUE J: If so, how should the proposed SOBRA additions in years 2024 and 2025 be addressed?

OPC: No. FPL has not demonstrated a need for limited adjustments in 2024 and 2025 for Solar additions. The historical test year upon which the forecasts and projections are based was extremely volatile historical test year due to the COVID-19 pandemic which virtually shut down large segments of the economy. Relying on 2020 as the historical test year beyond 2022 to multiple test years is fraught with pitfalls. The Commission should decline to employ any rate adjustments beyond the 2022 forecasted test year, like was done after the subprime mortgage crisis of 2008-2009. Moreover, FPL has not demonstrated that a 2024 or 2025 base rate increase is necessary to keep FPL from falling below the low point of its authorized range.

(Lawton, Smith)

WALMART

ISSUE K: If the Commission determines that it will not approve unified rates for FPL and Gulf, should Gulf's legacy customers be provided access to FPL's Commercial/Industrial Demand Reduction Rider (CDR)?

OPC: No position at this time.

E. **STIPULATED ISSUES:**

None at this time.

F. PENDING MOTIONS:

None.

G. REQUESTS FOR CONFIDENTIALITY:

OPC have no pending requests for claims for confidentiality.

H. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

OPC has no objections to any witness' qualifications as an expert in this proceeding.

I. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 14th day of July, 2021

Respectfully submitted,

Richard Gentry
Public Counsel

Patricia A. Christensen
Associate Public Counsel

Anastacia Pirrello
Associate Public Counsel

Charles Rehwinkel
Deputy Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
Of the State of Florida

CERTIFICATE OF SERVICE

Docket No. 20210015-EI

I HEREBY CERTIFY that a true and correct copy of the Office of Public Counsel's Prehearing Statement has been furnished by electronic mail on this 14th day of July 2021, to the following:

Thomas A. Jernigan
Holly L. Buchanan
Robert J. Friedman
Arnold Braxton
Ebony M. Payton
139 Barnes Drive, Suite 1
Tyndall Air Force Base
thomas.jernigan.3@us.af.mil
holly.buchanan.1@us.af.mil
robert.friedman.5@us.af.mil
arnold.braxton@us.af.mil
ebony.payton.ctr@us.af.mil
ULFSC.Tyndall@us.af.mil
**Represents: Federal Executive
Agencies**

Biana Lherisson
Jennifer Crawford
Shaw Stiller
Suzanne Brownless
Florida Public Service Commission
Office of the General Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
blheriss@psc.state.fl.us
jcrawfor@psc.state.fl.us
sstiller@psc.state.fl.us
sbrownle@psc.state.fl.us
Jon C. Moyle, Jr.
Karen A. Putnal
Moyle Law Firm, P.A.
118 North Gadsden St.
Tallahassee, FL 32301
jmoyle@moylelaw.com
kputnal@moylelaw.com
mqualls@moylelaw.com
**Represents: Florida Industrial
Power Users**

R. Wade Litchfield
John T. Burnett
Russell Badders
Maria Jose Moncada
Ken Rubin
Joel T. Baker
Florida Power & Light Co.
700 Universe Blvd. Juno Beach, FL 33408-0420
wade.litchfield@fpl.com
john.t.burnett@fpl.com
russell.badders@nexteraenergy.com
maria.moncada@fpl.com
ken.rubin@fpl.com
joel.baker@fpl.com
Represents: FPL

Bradley Marshall/Jordan Luebke
Earthjustice
111 S. Martin Luther King Jr. Blvd.
Tallahassee, Florida 32301
bmarshall@earthjustice.org
jluebke@earthjustice.org
**Represents: Florida Rising, Inc./League
of United Latin American Citizens of
Florida/
Environmental Confederation of
Southwest Florida, Inc.**

James W. Brew
Laura Wynn Baker
Joseph R. Briscar
Stone Mattheis Xenopoulos & Brew, PC
1025 Thomas Jefferson St., NW
Suite 800 West
Washington, D.C. 20007
jbrew@smxblaw.com
lwb@smxblaw.com
jrb@smxblaw.com
Represents: Florida Retail Federation

Kenneth Hoffman
134 West Jefferson St.
Tallahassee, FL 32301-1713
ken.hoffman@fpl.com

Represents: FPL

William C. Garner
Law Office of William C. Garner,
PLLC
The Cleo Institute Inc.
3425 Bannerman Road
Unit 105, #414
Tallahassee, FL 32312
bgarner@wcglawoffice.com

Represents: The CLEO Institute Inc.

Nathan A. Skop, Esq.
420 NW 50th Blvd.
Gainesville, FL 32607

Represents: Mr. & Mrs. Larson

Barry A. Naum
Spilman Thomas & Battle, PLLC
110 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
bnaum@spilmanlaw.com

Represents: Walmart

George Cavros
120 E. Oakland Park Blvd., Suite 105
Fort Lauderdale, FL 33334
george@cavros-law.com

Represents: Southern Alliance for Clean Energy

Katie Chiles Ottenweller
Southeast Director
Vote Solar
838 Barton Woods Road
Atlanta, GA 30307
katie@votesolar.org

Represents: Vote Solar

Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
111 Oakwood Dr., Suite 500
Winston-Salem, NC 27103
seaton@spilmanlaw.com

Represents: Walmart

Robert Scheffel Wright
John T. LaVia, III
1300 Thomaswood Dr.
Tallahassee, FL 32308
schef@gbwlegal.com
jlavia@gbwlegal.com

Represents: Floridians Against Increase Rates, Inc.

Christina I. Reichert
Earthjustice
4500 Biscayne Blvd., Ste. 201
Miami FL 33137
creichert@earthjustice.org
flcaseupdates@earthjustice.org
**Represents: Florida Rising,
Inc./League of United Latin
American Citizens of
Florida/Environmental
Confederation of Southwest Florida,
Inc.**

Gulf Power Company
Russell A. Badders
One Energy Place
Pensacola FL 32520-0100
Russell.Badders@nexteraenergy.com
**Represents: Florida Power & Light
Company**

/s/ Patricia A. Christensen
Patricia A. Christensen
Associate Public Counsel