

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposal to extend plan
for recording of certain
expenses for years 1998 and 1999
for Florida Power & Light
Company.

DOCKET NO. 970410-EI
ORDER NO. PSC-98-0027-FOF-EI
ISSUED: January 5, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK

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On behalf of the Commission Staff.

FINAL ORDER EXTENDING PLAN TO RECORD ADDITIONAL
EXPENSES THROUGH 1998 AND 1999

BY THE COMMISSION:

CASE BACKGROUND

In Docket No. 950359-EI, this Commission approved a proposal
by Florida Power & Light Company ("FPL" or "Company") that resolved
all of the identified issues regarding FPL's petition to establish
a nuclear amortization schedule. Pursuant to Order No. PSC-96-

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FPCO-RECORDS/REPORTING

0461-FOF-EI, issued April 2, 1996, FPL was required: (1) to book additional 1995 depreciation expense to the historic reserve deficiency in nuclear production; (2) to record, commencing in 1996, an annual \$30 million in nuclear amortization, subject to final determination by the Commission as to the accounts to which it is to be booked; and (3) to record an additional expense in 1996 and 1997 based on differences between actual and forecasted revenues, to be applied to specified items in a specific order. We voted to extend the Plan for 1998 and 1999 through Proposed Agency Action ("PAA") Order No. PSC-97-0499-FOF-EI, issued April 29, 1997. The proposed Plan, as approved in the PAA Order, is presented in Attachment A. AmeriSteel Corporation ("AmeriSteel") protested our proposed action.

On November 25, 1997, we conducted an evidentiary hearing on the following substantive issues in this docket: (1) the appropriate revenue forecast to be used in the proposed Plan; (2) whether to authorize any additional decommissioning or dismantlement expense as part of the proposed Plan; (3) whether to consider the use of reserve depreciation surplus balances for any plant accounts to offset depreciation reserve deficiencies; (4) whether to authorize the accelerated write-off of unamortized loss on reacquired debt as part of the proposed Plan; (5) whether to authorize FPL to record certain revenues in an unspecified depreciation reserve as part of the proposed Plan; and (6) whether to approve the proposed Plan. Having considered the evidence presented at hearing, the posthearing briefs of the parties, and the recommendations of our staff, our findings, made at our December 16, 1997, agenda conference, are set forth below.

Appropriate Revenue Forecast

This docket was established to address FPL's underrecoveries for depreciation reserve deficiencies, book-tax timing differences, unamortized loss on reacquired debt, fossil dismantlement reserve deficiencies, and nuclear decommissioning reserve deficiencies. The proposed Plan requires an annual write-off (expense) to address these underrecoveries, based upon a two-part calculation. The first part is the difference between the 1996 Most Likely Revenue Forecast (\$3,224.1 million) and the 1996 Low Band Forecast (\$3,140.9 million); this amount is \$83.2 million. The second part is identified as at least half the difference between the actual annual revenue during the period of the Plan (1998-1999) and the 1996 Most Likely Revenue. Thus, the 1996 Revenue Forecast serves

as a benchmark in determining write-offs under the proposed Plan. This benchmark could feasibly be replaced with any number of other benchmarks, such as the 1997 or 1998 Revenue Forecast, or any other discreet revenue amount selected for purpose of comparison to actual 1998 and 1999 revenue.

At hearing, FPL witness Gower stated that the use of the 1996 Revenue Forecast as a benchmark for determining write-offs in this docket is reasonable. He warned that the use of revenue forecasts for years later than 1996 as a benchmark could decrease the amount of write-offs in 1998 and 1999. He argued that this would delay and increase the risk of recovery of the costs in question.

AmeriSteel witness Cicchetti indicated that accelerated amortization should be based upon need and should not be a function of FPL's growth in revenue. He argued that the proposed Plan allows FPL to accelerate expenses that are appropriately attributable to future periods or are subject to revision, reestimation, or changed assumptions. He stated, "If the Commission allows recovery of the expenses allocated to the Plan, the Commission should simply direct FPL to write-off those amounts over an appropriate period." Based on witness Cicchetti's argument, using the 1996 Revenue Forecast as a benchmark for determining write-offs is unnecessary.

While there are many revenue benchmarks which could potentially be used to determine write-offs in this docket, it is important to identify the criteria for selecting the appropriate benchmark. We believe the appropriate revenue benchmark is one which: (1) allows the Company to address the remaining underrecoveries as expeditiously as possible; (2) provides incentive for the Company to control expenses; and (3) assumes minimal impact upon existing customer rates. We address each of these criteria below.

First, the appropriate benchmark should allow the Company to write-off the remaining underrecoveries as expeditiously as possible. In order to determine whether the proposed Plan is expeditious, it is necessary to compare the size of the problem (the amount of underrecoveries) to the size of the proposed solution (the forecasted write-offs). The total underrecoveries as of January 1, 1998, as detailed later in this Order, will be approximately \$768.4 million. Based on FPL's forecasted 1998 and 1999 revenue and the 1996 Revenue Forecast benchmark, the forecasted 1998-99 minimum write-off amount is \$464.0 million.

While the forecasted minimum write-offs are considerably less than the total underrecoveries, it is evident that more than half of the total underrecoveries will be written off during 1998 and 1999, the period during which the proposed Plan would be in effect. If the projected minimum write-offs were the amount actually expensed rather than some higher write-off amount, the proposed Plan would be expected to partially address the underrecovery problem, leaving \$304.4 million in remaining underrecoveries by the end of 1999.

If the Company wrote off expenses based, in part, upon one-hundred percent of the difference between the forecasted annual revenue and the 1996 Most Likely Revenue Forecast, so that total write-offs were increased to \$761.6 million for 1998 and 1999, such expenses would still be less than the identified underrecoveries by \$6.8 million (\$768.4 million less \$761.6 million). Thus, while FPL is required to write off at least half of the identified underrecovery amount under the proposed Plan, it appears unlikely that the Company will write off all of the underrecoveries during the period (1998 and 1999). According to the proposed Plan, any required write-off amount in excess of the approved underrecoveries must be credited to an unspecified depreciation reserve. It appears unlikely that a large amount would be credited to the reserve. We find that the proposed Plan is expeditious in addressing the forecasted underrecoveries. However, additional time beyond the period of the proposed Plan may be required to completely address all remaining underrecoveries.

Second, the use of an appropriate revenue benchmark should result in an incentive for FPL to control operational expenses. Witness Cicchetti asserted that the proposed Plan removes management incentives for efficiency associated with traditional ratemaking practices. He claimed that FPL may choose to forego writing-off certain expenses allowed under the proposed Plan and instead incur certain operational expenses that this Commission might not normally allow. Witness Gower countered that the requirement of the proposed Plan is for FPL to record significant additional Plan-related expenses each year of the Plan. He claimed that this requirement is achieved by capturing potential revenue growth for write-off purposes and is therefore not available to offset operational expense increases. According to witness Gower, "This heightens -- not eliminates -- the pressure to control expenses or suffer earnings below authorized levels."

We find that basing write-offs on the 1996 Revenue Forecast benchmark gives FPL an incentive to write-off as much of the

approved expenses as possible, as soon as possible. Using the 1996 revenue forecast benchmark, the Company projects that it must write off, at a minimum, \$203 million in 1998 and \$261 million in 1999, compared to the 1997 expected write-off of \$162 million. This means that FPL's base revenues must increase at least \$41 million more than FPL's operational expenses in 1998 compared to 1997 in order to satisfy the required minimum write-off. This assumes that (1) the Company books total write-offs during 1997 of approximately \$162 million as witness Gower has asserted, (2) annual revenue increases are realized based upon normal customer growth and normal use-per-customer growth pursuant to the Company's forecast, and (3) FPL experiences no reduction in current earnings in 1998. Under the proposed Plan, the Company has an incentive to minimize its operational expenses in order to achieve the forecasted minimum write-off requirement while still protecting its current earnings level. In this respect, the Company's current earnings may be in jeopardy if it fails to sufficiently control operational expenses.

Finally, the use of an appropriate revenue benchmark should not be based upon significant increases or decreases in customer rates. By basing write-off requirements on the 1996 Revenue Forecast, the proposed Plan requires no change in existing customer rates. The write-offs are a fall-out of the existing rates. According to witness Gower, the proposed Plan would "accomplish these corrections without increasing FPL's rates to current customers."

In summary, because the 1996 Revenue Forecast benchmark allows expeditious recovery of underrecovered costs, offers an incentive to minimize operational expenses, and requires no change in existing rates, we find that it is an appropriate benchmark to use to determine the additional expenses, or write-offs, allocated to the proposed Plan.

Decommissioning and Dismantlement Expense

FPL's witness Gower testified that FPL determined the nuclear decommissioning and fossil dismantlement reserve deficiencies by comparing what accrual would have been booked if the now-current estimates had been known and applied to each unit from its original in-service date to December 31, 1996. That amount was then compared to the book reserves which resulted in reserve deficiencies for nuclear decommissioning and fossil dismantlement. Witness Gower also acknowledged that the decommissioning and

dismantlement annual accruals should be adjusted at the time these deficiencies are corrected, in the course of the review of the 1998 decommissioning and dismantlement studies.

Witness Gower testified that the identified reserve deficiencies associated with nuclear decommissioning and fossil dismantlement meant that FPL should have recorded and recovered higher expenses in prior years. According to witness Gower, the importance of correcting these deficiencies is evidenced by our orders approving the annual decommissioning and dismantlement accruals. He asserts that FPL's units have, on average, been in service for 50% of their estimated useful lives. However, as of December 31, 1996, the decommissioning reserve amounted to less than 12% of the estimated total future expenditures to be made for decommissioning costs. Further, the provision for fossil dismantlement was not begun until 1987, while the in-service dates of many of the units in question date back 20 years prior to 1987. Witness Gower concluded that these facts demonstrate that the reserves should be corrected. For this reason, he recommended that we not delay the recovery of these deficiencies until new dismantlement and decommissioning studies are filed in 1998.

Witness Gower further testified that correction of the nuclear decommissioning and fossil dismantlement reserve deficiencies over a time period shorter than the remaining life of the associated plants is consistent with this Commission's prior actions. He explained that reserve deficiencies can be recovered over the remaining life of the associated plant or over a much faster period of time. He referenced various orders in which we corrected reserve deficiencies over relatively short periods of time. Witness Gower asserted that because the corrections reduce the amount of required investor capital, it is in the customers' best interest to accomplish the corrections as soon as possible.

Because the reserve deficiencies represent costs that should have been recovered in prior years, intergenerational equity suggests that these deficiencies be recovered quickly so that future ratepayers are not burdened with an unfair share. The primary purpose of the proposed Plan is to correct past deficiencies. This correction is not an acceleration of expenses appropriately attributable to future periods but, in fact, is remedial because it addresses expenses appropriately attributable to prior years and therefore corrects intergenerational inequities. The intergenerational inequity has already occurred and, if not corrected by the proposed Plan, will only be exacerbated.

Witness Gower testified that prompt correction of these deficiencies is fair to FPL's customers because it will lower costs in the long-run and allow rates to remain stable. He cited Order No. 12149, issued June 17, 1983, in which this Commission stated that increasing the reserve for depreciation ". . . is appropriate because a reduction in rate base can be more favorable to customers . . . because there will be less investment for the customers to support." In making these corrections, witness Gower asserted that long run revenue requirements will be reduced, benefitting customers served by FPL for the longer term.

Witness Gower also explained that the correction of the nuclear decommissioning reserve deficiency will not result in any cash flow benefit to FPL because the nuclear decommissioning reserve is required to be funded. Placing additional expense in the external fund will provide assurance to this Commission and FPL's customers that the financial resources necessary to meet the decommissioning cost obligations will be available when needed.

AmeriSteel's witness Cicchetti testified that there is no demonstrated need to allow the write-off of the nuclear decommissioning and fossil dismantlement reserve deficiencies in 1998 and 1999. In its Brief, AmeriSteel argues that such a write-off represents a dramatic, fundamentally unsound and unexplained departure from well established Commission policy. Witness Cicchetti asserted that the magnitude of the additional expenses and the estimation of these expenses indicates that a comprehensive review of the 1998 studies should be made to determine if there actually is a need. Additionally, he testified that there is no evidence that FPL's claimed deficiencies are life-related or that there are intergenerational equity concerns.

Witness Cicchetti submitted that FPL's nuclear decommissioning accrual prescribed in 1995 was designed to correct any deficiencies over the remaining life of the nuclear units. He stated that the decommissioning and dismantlement studies to be filed in 1998 will allow us to determine if any further changes in the annual accruals are necessary. Witness Cicchetti submitted that there is no indication that periodically adjusting the decommissioning and dismantlement annual accruals will not adequately ensure recovery over the remaining lives of the associated units.

AmeriSteel argues that the decommissioning and dismantlement deficiencies are not significant amounts of known and verifiable costs that should be addressed in any other fashion than recovery

over the remaining life. Witness Cicchetti asserted that such long range estimates of future costs are inherently inaccurate and that regulatory, technological, and other factors may materially change. He concluded that this Commission's long established policy correctly requires periodic updates of those studies and adjustments as appropriate to the annual accruals to assure full recovery over the remaining lives of the assets.

Further, witness Cicchetti submitted that a one-time recovery of the perceived nuclear decommissioning and fossil dismantlement reserve deficiencies is unfair to current ratepayers, based on the magnitude of the amounts and the fact that decommissioning and dismantlement costs are subject to periodic revision. He testified that there is no evidence that FPL is in danger of not earning its authorized rate of return and no evidence that recovery of the costs identified in the proposed Plan are in jeopardy. He concluded that absent such a showing, we should reassess the reasonableness of aggregating these expenses in 1998 and 1999.

AmeriSteel argues in its Brief that this Commission has routinely assessed the effect of special amortizations or accelerated recovery on the utility's earnings, usually in the context of determining the appropriate period. AmeriSteel cites Order No. PSC-95-0340-FOF-EI, issued March 13, 1995, in Docket No. 931231-EI and Order No. PSC-95-1230-FOF-EI, issued October 3, 1995 in Docket No. 950270-EI as support for this proposition. In the instant case, AmeriSteel surmises that no effort has been made to address the effect of the proposed Plan on FPL's earnings because the revenue growth offset approach ensures that only earnings near or above the top of FPL's authorized range are affected.

As further support for its position, AmeriSteel cites Order No. PSC-95-1531-FOF-EI, issued December 12, 1995, in Docket No. 941350-EI. This Order established revised nuclear decommissioning annual accruals for FPL and Florida Power Corporation effective January 1, 1995. At page 15, the Order states:

Based on the current dollar cost to decommission each nuclear plant, the plant-specific contingency allowances, the plant-specific escalation rates, the cost of extended storage for spent fuel, and a fund earnings rate of 4.9%, we have determined the appropriate jurisdictional annual accrual amounts necessary to recover future decommissioning costs

over the remaining life of each nuclear power plant....

AmeriSteel contends that because no party in the instant case has argued that our determination in Order No. PSC-95-1531-FOF-EI was insufficient, no further action is necessary or justified until new decommissioning studies are submitted to the Commission for review. AmeriSteel argues that recovery over the remaining life of each nuclear unit is our established policy and that adjustments to the annual accruals, when needed, assure FPL of full funding of the reserve by the time decommissioning begins.

In its Brief, AmeriSteel also argues that the proposed Plan contains no provision for removing the effect of the calculated deficiency from the currently approved annual accrual for nuclear decommissioning and fossil dismantlement. AmeriSteel submitted that FPL witness Gower was unable to state whether the revised calculated accrual shown in Composite Exhibit 7, pg. 14, was correct. Without a recalculated accrual on a going-forward basis, witness Gower agreed that customers would continue to be charged for the deficiency until new studies are filed in 1998 and we determine a new annual accrual amount.

AmeriSteel believes that it is arbitrary and fundamentally unfair to charge customers in 1998 and 1999 for the reserve deficiencies unless we have determined that the 1995 decommissioning studies were perfect and no inputs to those studies will change in the future. In its Brief, AmeriSteel admits that it is impossible to back-bill customers served by FPL in prior years; however, it believes it is also unsound ratemaking to charge current customers the full amount of the deficiencies based on a 1995 estimate that will become obsolete when the next studies are filed next year. AmeriSteel argues that there is no basis for imposing the full burden of past recovery on customers served in 1998 and 1999; these customers carry all of the risk that the 1995 estimates will change materially in the future and have no opportunity to be reimbursed if subsequent studies show that the perceived deficiencies were overstated.

Concerning FPL's fossil generating units, witness Cicchetti pointed out that fossil generating stations around the country are being sold as part of companies' restructuring plans. These sales have tended to be in excess of the net book value of these plants. According to AmeriSteel, as long as the purchase price exceeds book value, the utility will not incur any cost penalty for any future

liabilities it is shifting to the buyer, including ultimate dismantlement costs. AmeriSteel concludes, therefore, that if FPL were to sell any of its fossil units, they would sell for at least net book value, in which case the amounts accumulated in the dismantlement reserve would become surplus because FPL would no longer have the liability of dismantlement. In summary, AmeriSteel contends that recovery of the dismantlement reserve deficiency in 1998 and 1999 is unfair and results in intergenerational inequity especially in light of possible sales or auctions.

Witness Gower stated that, due to environmental regulations, he did not believe that the sale of a plant site would allow its owner to escape further liability. He claimed that environmental regulations make a plant site's owner partially responsible for any clean-up that may be necessary. Witness Gower asserted that a new owner would adjust the purchase price he or she is willing to pay to compensate for assuming the removal obligation. Therefore, he concludes, FPL would not escape environmental costs by selling a plant because those costs would be captured in the economics of the negotiated purchase price of the unit.

If FPL sells any of its generating stations, we may determine at that time the appropriate accounting treatment for the gain or loss on the sale; this is not an issue that needs to be addressed in this proceeding. In addition, we agree with FPL that its relative position in the industry insofar as exposure to competition is irrelevant to proper depreciation accounting as long as FPL remains subject to cost-based price regulation.

AmeriSteel witness DeWard argued that if any alleged decommissioning reserve deficiency is allowed to be charged against what appears to be overearnings, ratepayers may never benefit because the rates will remain at the current levels. He testified that where reserve deficiencies are identified, the appropriate response is to adjust the annual accrual for decommissioning to ensure that the deficiency is remedied over time. According to witness DeWard, no additional corrections are required unless the next decommissioning studies demonstrate that the accrual levels established in 1995 are insufficient. He contended that given the unknowns -- potential technology changes and the potential for changes in decommissioning requirements -- there is no guarantee that the perceived deficiency could not turn into an excess in the future. Upon cross examination by FPL, however, witness DeWard acknowledged that if there is a currently existing reserve

deficiency and the accrual had been larger in prior years, the amount of the deficiency would necessarily be lower.

In its Brief, AmeriSteel claims that our staff used a retrospective method for calculating the perceived reserve deficiencies for fossil dismantlement and nuclear decommissioning. It quotes a passage which states that the retrospective theoretical reserve is generally used when remaining life cannot be estimated. AmeriSteel's conclusion is that the retrospective theoretical reserve method does not apply to nuclear decommissioning reserve studies where each unit's 40 year operating license defines its useful life.

We note that the passage cited by AmeriSteel as authority for its claim is not part of the record. Further, our staff did not calculate the reserve deficiencies submitted in this proceeding; FPL submitted these calculations in response to discovery requests propounded by our staff. We have reviewed these calculations and found them to comport with the traditional method of calculating a theoretical reserve. Basically, FPL assumed that the base cost estimates and other assumptions underlying its currently approved accrual had always been known and determined what the decommissioning and dismantlement reserves theoretically should be as of December 31, 1996. This is not a retrospective reserve calculation. It is a traditional prospective calculation. As with any depreciable investment, this calculation is a reasonable approach in determining the reserve that theoretically should have accrued given what is known today. The difference between the theoretically correct reserve and the book reserve constitutes a reserve imbalance that can either be a surplus or a deficit.

This issue is one of timing: whether reserve deficiencies associated with nuclear decommissioning and fossil dismantlement should be recovered over the remaining life of the respective units, as is currently being done, or whether these deficiencies should be written-off over a shorter period of time. We must determine whether there is sufficient evidence showing the existence of reserve deficiencies and the appropriate recovery pattern. A recalculation of the annual accruals recognizing the correction of these deficiencies will be made as part of the 1998 decommissioning and dismantlement studies. There will be less in the future to recover translating into a lesser annual accrual. If the accrual is not recalculated to account for the reserve correction, customers will not have the benefit of the correction.

At hearing, witness Gower was asked if each of the cases he cited in Exhibit 1, as support for the proposed Plan, considered an appropriate amortization period for a known and verified cost. Asked specifically if any of the amounts were subject to being re-estimated in the future, he responded that some of the estimates were definitely of the same type as the nuclear decommissioning reserve deficiency.

Witness Cicchetti agreed that, based on a finding of a material imbalance, it would be in accordance with normal regulatory practice for the Commission to accelerate the recovery. He also agreed that the fact that very precise answers cannot be obtained should be no deterrent from making determinations of depreciation. Further, he agreed that reasonably accurate results in both cases are all that should be expected and these can usually be achieved. However, he did not wholly agree with the following passage from Exhibit 19, page 10 and 11:

. . . if the annual accrual for depreciation is understated, there is a corresponding overstatement or inflation of net income and earned surplus. If past deficiencies and depreciation accruals were substantial, it may be necessary to make up the back accruals by an appropriate adjustment of existing or future earned surplus and, in extreme cases, of the capital account itself . . .

Witness Cicchetti testified that he believes adjustments of existing or future overearnings to make up material past deficiencies and depreciation accruals may or may not be appropriate accounting from a regulatory perspective. He stated that the important thing is that the Company recover its total cost; he further stated that there is nothing to indicate that any of the items or the amounts listed in the proposed Plan are in jeopardy of not being recovered. Witness Cicchetti pointed out that the existence of a depreciation reserve deficiency is not the fault of the ratepayers, this Commission, or the Company. To take a reserve deficiency accumulated over 15 or 20 years and recover it from the ratepayers in 1998 and 1999, according to witness Cicchetti, is not fair. He testified that ratepayers, in the years 1998 and 1999, will be paying much more than their fair share of the cost. He contended that the period of recovery of the depreciation reserve balance is not as important as ensuring that the imbalance is recovered in total by the end of its useful life.

However, on page 10 of Exhibit 19, paragraph 14, it states the following:

If depreciation policies or practices were to be determined solely with concern for the level of revenue requirements, the actual measure of depreciation might be misstated. Such distortion of the measure of depreciation would in turn lead to a misstatement of the results of operations for the period and would also misstate the relative position of the enterprise as shown by its balance sheet . . . a failure to properly measure by understating these costs would, in the long run, probably be offset by higher costs of capital without any real avoidance of the ultimate need to provide full recovery for the capital.

Witness Cicchetti stated that the magnitude of the deficiencies accentuate the intergenerational inequity. Even though nuclear decommissioning reserve deficiencies are currently being recovered over the remaining life of the nuclear units, Witness Cicchetti admitted that there have been instances where the Commission has allowed deficiencies to be written off over shorter periods. There are times, he agreed, that it would be appropriate to write off deficiencies over a shorter period of time, but he claimed that the magnitude of the deficiencies in this case makes a shorter write-off unfair. Witness Cicchetti also agreed that reserve deficiencies are attributable to the past. He agreed that the goal of intergenerational equity is that each generation of customers pays for the costs related to the service from which they are benefitting. However, he testified that the recovery of the nuclear decommissioning and fossil dismantlement deficiencies are in conflict with the definition of intergenerational equity.

Witness Cicchetti agreed that, theoretically, the costs for decommissioning and fossil dismantlement should be recovered equitably over the life of each unit and each generation of customers should pay for the costs related to the nuclear or fossil generating plant from which they are benefitting. To the extent customers of the past did not pay their fair share of the costs, he agreed that customers of the future will have to make up that shortfall by paying a higher accrual than they would otherwise have to pay. He recognized that this Commission cannot go back and charge past ratepayers for those costs. Witness Cicchetti testified that it is fair to continue spreading material costs over

the remaining life. Notwithstanding this, he admitted that if there's an identified shortfall, there will be a greater amount to recover in the future than there would be if there was no shortfall. He also admitted that correcting the deficiency over a shorter period of time will reduce the spread of the shortfall into the future.

Witnesses Cicchetti and DeWard argued that correction of the deficiencies as quickly as economically practicable exacerbates an intergenerational unfairness to the ratepayers of 1998 and 1999. However, the record evidence demonstrates that intergenerational unfairness already exists due to the existence of these reserve deficiencies.

With respect to this issue, there are certain thresholds required to be met by record evidence. The first threshold is whether there is sufficient evidence showing the existence of reserve deficiencies. The record evidence demonstrates that based on the base cost estimates and assumptions that underlie FPL's currently prescribed nuclear decommissioning and fossil dismantlement annual accruals, FPL has identified and quantified an existing reserve deficiency for nuclear decommissioning and for fossil dismantlement as of December 31, 1996. The record evidence demonstrates that the fact that very precise answers cannot be obtained should be no deterrent in identifying these reserve imbalances. It can fairly be stated that the future cannot be predicted. Therefore, it is reasonable for this Commission to rely upon estimates in the determination of the calculation of reserve imbalances.

The second threshold is whether the correction of reserve deficiencies over a shorter period of time than the remaining life is in accordance with normal regulatory accounting practice. The record evidence demonstrates that the correction of reserve deficiencies over a shorter period of time than the remaining life is in accordance with normal regulatory accounting practice. Moreover, the record evidence demonstrates that the correction of reserve deficiencies over a shorter period of time than the remaining life is in accordance with past Commission practice.

The remaining threshold is whether the record demonstrates that correcting a reserve deficiency over a shorter period of time is more reasonable or fair than correcting the reserve deficiency over the remaining life. The record evidence demonstrates that the tenet of intergenerational equity dictates that, in this docket,

correcting reserve deficiencies over a shorter period of time is more reasonable or fair than correcting the reserve deficiency over the remaining life.

In conclusion, in accordance with the foregoing, there is ample record evidence for us to find that it is not necessary to defer a decision to allow any additional decommissioning or dismantlement expense to correct historic reserve deficiencies. Therefore, we find that this portion of the Plan should be approved.

Reserve Depreciation Surplus Balances
to Offset Depreciation Reserve Deficiencies

This issue was originally raised by AmeriSteel and was addressed in the testimony of FPL witness Gower and AmeriSteel witness Cicchetti. The record evidence, while limited, is sufficient to address this issue.

Witness Gower testified that reserve transfers across functional categories have pricing implications which may be unacceptable because different classes of service provided to customers involve usage of the several functional categories of plant. If, for example, a reserve transfer were made from the transmission plant reserve to some other function (distribution, production, or general), it could automatically cause an increase in the price to a commercial interruptible customer. In addition, Mr. Gower asserted, the Federal Energy Regulatory Commission prohibits such transfers.

Witness Cicchetti testified that we should consider offsetting reserve surpluses and deficiencies in related plant accounts, where applicable. However, he admitted that such transfers of reserve could, in fact, have pricing implications.

In its Brief, AmeriSteel offers two orders in support of its position. First, AmeriSteel attempts to distinguish the facts of this case from a Federal Energy Regulatory Commission (FERC) order that overturned a South Carolina Public Service Commission decision in which a transfer of surplus reserve from the transmission function to the generation function to mitigate generation-related stranded costs was approved. We note that FPL witness Gower mentioned both the FERC and the South Carolina decisions in his prefiled direct testimony as support for his testimony.

AmeriSteel, however, failed to offer a rebuttal to witness Gower's testimony either through its prefiled rebuttal testimony or at hearing. We believe that it is inappropriate for AmeriSteel to attempt rebuttal through its post-hearing Brief.

Second, AmeriSteel refers to Order No. PSC-94-1199-FOF-EI, issued September 30, 1994, in Docket No. 931231-EI, as illustration of and support for Commission authorized surplus reserve transfers. Specifically this Order states:

Due to the effect reserve transfers may have on jurisdictional separations, purchase power agreements, or other lease arrangements, our approach to reserve reallocations is that they should, ideally, be made between accounts of a given unit or function.

This Order clearly shows that our approach to reserve transfers is to make them between accounts within the same function and not between accounts across functions. This approach is in agreement with the approach put forward by FPL witness Gower.

FPL's calculation of the decommissioning and dismantlement reserve deficiencies do consider the various reserve imbalances for each nuclear unit and each fossil generating unit. This is also in accord with the Commission's approach to reserve transfers as stated above.

In conclusion, we will not consider reserve transfers between functions because they may result in pricing issues. Further, we will continue to consider reserve transfers between plant accounts within the same production unit and between units within the same production site.

Write-Off of Unamortized Loss on Reacquired Debt

The loss on a reacquired debt balance represents the amounts associated with reacquisitions of debt. When a debt issue is reacquired, the call premium, the unamortized expense of the original issue, and any unamortized discount or premium is written off to loss on reacquired debt. The associated loss on reacquired debt is then amortized over the remaining life of the original issue and the detail of unamortized expense, discount, or premium is no longer maintained.

According to FPL witness Gower, "[d]eferral of the recovery of the capital investors have provided to fund refinancing of high cost debt over the remaining life of the securities refinanced adversely affects the regulated cost of capital in the same manner that insufficient capital recoveries through depreciation inflates rate base. Although deferral and amortization does allow recovery of the capital investors provided to achieve the interest cost savings from refinancing, the long amortization period affects FPL's cost of capital for years beyond the time when the interest savings has 'recovered' the cost of the refinancings."

Witness Gower testified that the "interest cost savings realized from refinancings undertaken by FPL from 1984 through 1996 aggregated \$907,722,000 for the period, while the cost of the refinancings totaled \$397,029,000 (including the \$282,756,000 unamortized balance at December 31, 1996). Although the savings have 'recovered' the costs and yielded additional savings in excess of \$500,000,000 ($\$907,722,000 - \$397,029,000 = \$510,693,000$), for ratemaking purposes \$282,756,000 at December 31, 1996 burdens the future cost of service. Earlier recovery of the capital investors supplied to achieve the savings would obviate this need. This will benefit customers who will be served by FPL for the longer term, but their benefit would be realized much sooner."

In response to an interrogatory propounded by our staff, FPL initially indicated that the forecasted balance of unamortized loss on reacquired debt at December 31, 1997, was \$98.5 million. At the hearing, however, witness Gower indicated that the balance of unamortized loss on reacquired debt would be the \$98 million plus the \$79 million discretionary additional expense recognition, which now "does not appear likely to be recorded" in 1997. As a result, the unamortized balance as of January 1, 1998, will be approximately \$177 million. The interest savings is forecasted to be approximately \$142 million for 1998. Therefore, the balance of unamortized loss on reacquired debt could be recovered over the two years of the proposed Plan without the amortization in either year exceeding the interest savings for that year.

AmeriSteel witness Cicchetti recommended that the amount of unamortized loss on reacquired debt should be amortized over the remaining life of the original debt or spread over the life of the new issue. He testified that this will result in future ratepayers paying their fair share of the costs associated with the prudently reacquired debt. He stated that "[u]nder the concept of intergenerational equity, it is inappropriate to force current

ratepayers to bear the costs of reacquiring the debt so that future ratepayers can enjoy a cost of debt below the 'net' cost of debt. Ratepayers bear the cost to the extent that the expenses taken under the Plan reduce overearnings."

Witness Cicchetti further stated that "FPL has reacquired significant amounts of debt resulting in an excessive amount of equity in its capital structure. By reacquiring substantial amounts of debt, FPL has replaced a tax deductible source of financing with a higher cost, non-tax deductible source of financing that: 1.) Increased FPL's after-tax overall cost of capital relative to what it would have been otherwise; 2.) Increased the dollar return to investors, and; 3.) Reduced the amount of potential overearnings."

Finally, witness Cicchetti testified that, with respect to the balance of unamortized debt costs associated with reacquisition, there is no valid justification for ratepayers to have to pay such a high amount. He concluded that writing off costs associated with the reacquired debt is inappropriate because the ratepayers, over the two year period, will pay the costs associated with reacquiring the debt while the benefits are given to ratepayers in the future.

AmeriSteel witness DeWard also testified that losses on reacquired debt "are generally amortized over the remaining life of the debt that has been paid off or over the life of the debt issued to pay off the old debt." He indicated that "[t]his makes sense because the benefits of reducing debt costs are realized by ratepayers over time as well. Of course, this must be tempered to ensure that the capital structure is appropriate for ratemaking purposes and that the debt/equity ratio is appropriate."

Witness Cicchetti raised concerns about the appropriateness of the capital structure and intergenerational equity. In Order No. PSC-97-1070-PCO-EI, issued September 10, 1997, the prehearing officer for this docket determined that the issue of the appropriateness of FPL's capital structure is outside the scope of this proceeding. As for the issue of intergenerational equity, witness Gower testified that "[b]y and large, the costs being recovered in this case were incurred to produce service in prior years and 'intergenerational equity' suggests those costs be recovered quickly so that the cost of service in the future is not burdened with prior service costs . . . or before some who received the prior service depart and avoid their fair share of the costs."

The issue before us is whether the details and results of the Plan for recording certain expenses in 1998 and 1999 are in the public interest. With respect to the record developed in this proceeding regarding the issue of accelerating the write-off of the remaining balance of unamortized loss on reacquired debt, there are three reasons that have persuaded us to find that this treatment be allowed.

First, the Uniform System of Accounts (USoA) allows this Commission discretion in the treatment of these costs. Although AmeriSteel does not agree with this proposed methodology for writing off these costs, it admits in its Brief that we have the authority to do so. In addition, the Accounting Principles Board (APB), in adopting APB 26, concluded that call premiums and other costs associated with the refunding and extinguishment of old debt could not be a source of benefit to new debt issues. In other words, the Board viewed refunding and early extinguishment as completed transactions and as such, gains or losses have to be recognized. Thus, the USoA and APB allow (the APB actually requires) the write-off of refunding and early extinguishment costs in the period they are incurred.

Second, there is precedent found in several cases where this Commission has deviated from the USoA for the recovery of loss on reacquired debt and debt issuance costs. The USoA (Part 32) for the telephone industry specifies that loss on reacquired debt be recognized in the same period in which the debt was refinanced rather than amortized, as stated in Order No. 22793, issued April 10, 1990. However, in Order No. PSC-94-0172-FOF-TL, issued February 11, 1994, we approved a stipulation and agreement which allowed Southern Bell to amortize the costs of refinancing as rapidly as possible as long as the amortization in any year did not exceed the interest savings for that year. As previously discussed, witness Gower testified that the unamortized balance as of January 1, 1998, will be approximately \$177 million. The interest savings is forecasted to be approximately \$142 million for 1998. Therefore, the balance of unamortized loss on reacquired debt can be recovered over the two years of the proposed Plan without the amortization in either year exceeding the interest savings for that year.

In contrast to the USoA for the telephone industry, the USoA regarding the electric and gas industry specifies that loss on reacquired debt be amortized over the remaining life of the original debt or over the life of the new issuance, as Witness

Cicchetti discussed in his testimony. However, in Order No. PSC-95-0964-FOF-GU, issued on August 8, 1995, in the case of West Florida Natural Gas, we approved an accelerated recovery of unamortized issuance cost. In this Order, we found the utility's proposal to apply excess earnings from fiscal years 1994 and 1995 toward the reduction of its balance of unamortized issuance costs to be reasonable and in the interests of both the utility and the ratepayers.

Finally, the accelerated write-off of unamortized loss on reacquired debt will significantly reduce FPL's embedded cost of debt. All other things constant, the reduction in the cost of debt will result in a lower overall cost of capital. The lower cost of capital will be used for measuring earnings in any future proceeding. This result could lead to a rate decrease or a rate increase being deferred to the future.

In conclusion, based on the record in this proceeding, we find that the accelerated write-off of unamortized loss on reacquired debt is reasonable and in the interests of both FPL and its ratepayers. Therefore, this portion of the proposed Plan should be approved.

Recording Excess Expenses in Unspecified
Depreciation Reserve

The purpose of the proposal to record any amounts in an unspecified depreciation reserve is to allow this Commission to retain jurisdiction over any additional expenses recorded over and above the amounts necessary to fully recover the reserve deficiency deferred items that have been specifically identified in the proposed Plan. FPL witness Gower agreed that we have the authority to consider various options for disposing of any amounts recorded in this reserve, including a refund. Based on the discussion of prior issues in this recommendation, it appears unlikely that FPL will record additional expenses in 1998 or 1999 that will exceed the specifically identified items. Instead, Witness Gower stated that the additional expenses to be recorded will be less than the total amount that is available to be written off.

AmeriSteel witness Cicchetti contended that because no depreciation reserve deficiency has been identified, there is no reason to create such a reserve. Instead, he testified, some type of rate relief should be provided.

Witness Gower cited several orders of this Commission directing that additional depreciation expense be recorded to dispose of over-collections of revenue for various reasons. Order No. 16257, issued June 19, 1986, directed companies to credit the revenue effect associated with interest synchronization for Job Development Investment Credit to an unspecified depreciation reserve account. This action was taken without any specific quantified or identified reserve deficiency. In each case, we stated that these amounts would be made account specific at the next depreciation prescription.

Further, as part of Order No. 20162, issued October 13, 1988, in Docket Nos. 880069-TL and 870832-TL, we set aside certain revenues for depreciation. This Order states:

In its testimony, Southern Bell proposed to set aside certain revenues to fund depreciation. The company requested \$50,000,000 for 1989 and \$156,000,000 for 1990. The effect of our previous decisions is that \$17,114,281 remains for 1989 and \$147,743,082 for 1990. We will hold these funds subject to disposition by the Commission when Southern Bell files its next depreciation study. If the company justifies additional depreciation, these amounts can be applied to that end. If the amounts are not proven to our satisfaction, we can otherwise dispose of those amounts.

Witness Cicchetti testified that no depreciation reserve deficiency has been identified and, therefore, there is no reason to create an unspecified depreciation reserve for the excess revenues rather than providing rate relief. If expenses are recorded to the reserve and we later decide that there are no deficiencies and the money should be refunded to the customers, witness Cicchetti questioned whether this would constitute retroactive rate-making. In any event, he agreed that we would maintain jurisdiction over the monies if they are booked to an unspecified reserve. Additionally, in its Brief, AmeriSteel expresses concern that recording excess revenues to an unspecified reserve would simply ensure that a cash refund or a reduction in rates to offset any excess revenues would not be made under any circumstance.

FPL agrees that in the event no additional reserve deficiencies exist, adjustments to the reserve should not be made simply to "accelerate" recovery. If this is the case, another

option available for us to consider for the disposition of any excess revenues recorded to the reserve would be a cash refund to the customers. The point is that this Commission retains jurisdiction over these excess revenues until final disposition is determined. FPL contends that while a refund would provide customers a short-term benefit, additional capital recovery treatment provides lower long-run revenue requirements by reducing investor supplied capital on which a return must be paid.

Composite Exhibit 7, pages 100-156, identifies reserve deficiencies associated with FPL's combined-cycle units and six of its steam production sites. When FPL files its comprehensive depreciation study later this month, a review of FPL's current depreciation rates and its reserve position can be made. Based on that review, monies directed to be recorded to the Production Plant reserve as a result of the Plan approved in Docket 950357-EI will be made account specific. In the event additional deficiencies exist, they should be candidates for correction. Witness Gower testified that he believed the proposed Plan contemplates the Commission considering future depreciation studies that are filed on behalf of FPL.

We agree with AmeriSteel that the proposed Plan should be more specific regarding the disposal of any excess revenues booked. If FPL justifies the need for additional depreciation expense to correct additional reserve deficiencies, and there are additional revenues, these monies should be used to that end. However, if the need for the additional depreciation expense is not proven to our satisfaction or if there are no reserve deficiencies to correct, we shall otherwise dispose of the monies recorded in the non-account specific reserve.

Based on the record, we believe that no expenses are likely to be recorded in the unspecified depreciation reserve. We also believe that a "safety net" should be established to allow us to retain jurisdiction if FPL is in a position to record any additional expenses in excess of the specifically identified items. Because we have the discretion to consider various options to dispose of any amounts recorded in this reserve, we may order a refund or other type of rate relief. Therefore, we find that it is appropriate to allow FPL to record expense amounts in an unspecified depreciation reserve after all of the other items in the proposed Plan have been recovered.

Conclusion

We have discussed the merits of each individual element of the proposed Plan and have approved each element for inclusion in the Plan. However, the question of whether or not to approve the extension of the Plan still remains.

The overall purpose of the proposed Plan is to mitigate past reserve deficiencies, deferred regulatory assets, and previously flowed through taxes. All of these items relate to prior periods but are affecting current periods because they are being amortized or charged over future periods. The elimination or reduction of these items will result in lower future revenue requirements because rate base and expenses will be reduced.

FPL witness Gower stated that one purpose of the PAA Order was to help facilitate the establishment of a "level accounting playing field". However, he did not advocate an immediate change in our policies in this docket to achieve such an end. On this point, we agree with the assertion in AmeriSteel's Brief that this is not an appropriate reason to adopt the proposed Plan. There is no basis in the record for attempting to revise the accounting rules for FPL to treat it as though it was an unregulated company. As previously stated, the purpose of the proposed Plan is to accelerate the recovery of past underrecoveries.

Based on our findings above, we find that the proposed Plan, as set forth in the PAA Order, should be approved. We also find, however, that two modifications to the proposed Plan are appropriate. The first modification is to eliminate Item 2 of the proposed Plan, concerning the book-tax timing differences. The record demonstrates that the entire amount of the book-tax timing differences will be written-off during 1997. Therefore, it is not necessary to include this item in the Plan extension. The second modification concerns Item 6 of the proposed Plan, related to the recording of additional expense amounts in an unspecified depreciation reserve. The language in Item 6 should be modified to reflect that we have the authority to consider a variety of options for the disposition of any amounts included in the unspecified depreciation reserve. The approved Plan, as modified, is incorporated in this Order as Attachment B.

We believe it is good regulatory policy to eliminate these types of prior period items when the funds are available to do so without raising current rates. Once these items have been

addressed, we may then evaluate FPL's earnings on a going forward basis and decide on an appropriate course of action.

We note that no witness, in direct or rebuttal testimony, specifically addressed the treatment of the debit deferred income tax balances related to the decommissioning of FPL's nuclear units. However, witness Gower indicated that his testimony was intended to show that the Plan is reasonable and appropriate, benefits FPL's customers for the longer term, and represents good regulatory policy. He stated that the Plan requires the debit balance deferred income taxes related to decommissioning the nuclear units be treated below the line for ratemaking purposes and that such treatment is an entirely reasonable adjustment to make. Witness Gower testified that this treatment is appropriate in order to make the books balance.

The funded reserves may be either qualified or unqualified. Witness Gower explained that, to arrive at base rates, the reserve for decommissioning and the funds for decommissioning are removed from rate base and expense. We agree that below the line treatment of the debit balance deferred income taxes related to decommissioning the nuclear units is consistent with the treatment given the other elements of decommissioning. Accordingly, we find that this portion of the proposed Plan should be approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and all of the specific findings herein are approved in every respect. It is further

ORDERED that the proposal to extend the Plan for Florida Power & Light Company to record certain expenses for 1998 and 1999, as set forth in Attachment B to this Order, is approved. It is further

ORDERED that Florida Power & Light Company's 1996 Revenue Forecast is the appropriate revenue forecast to use to determine the level of additional expenses allocated to the Plan. It is further

ORDERED that Florida Power & Light Company is authorized to correct deficiencies in its fossil dismantlement and nuclear decommissioning reserves as set forth in the Plan. It is further

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ORDERED that this Commission will not consider requiring Florida Power & Light Company, as part of the approved Plan, to transfer reserve depreciation surplus balances for any of its plant accounts to offset depreciation reserve deficiencies. It is further

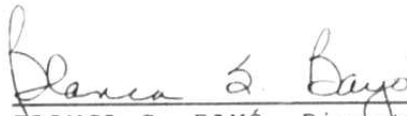
ORDERED that Florida Power & Light Company is authorized to accelerate the write-off of unamortized loss on reacquired debt as set forth in the Plan. It is further

ORDERED that Florida Power & Light Company is authorized to record, as an expense to a non-account specific reserve account in Production Plant, any revenues remaining after correction of any depreciation reserve deficiency, writing off unamortized loss on reacquired debt, and correction of fossil dismantlement and nuclear decommissioning reserve deficiencies. These revenues shall either be allocated to specific accounts during a comprehensive depreciation rate review or otherwise disposed of by this Commission. It is further

ORDERED that the Plan neither precludes an earnings review nor a review of the Plan during the context of a proceeding to reset base rates. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of January, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

FPL 1998 and 1999 Plan

FPL shall record an additional retail expense in 1998 and 1999 equal to 100% of the base rate revenues produced by retail sales between its "low band" (\$3.1409 billion) and "most likely sales forecast" (\$3.2241 billion) and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. Any additional retail expense recorded as a result of this provision will be applied to the retail portion of the following listed in priority order:

1. Correction of any depreciation reserve deficiency resulting from an approved depreciation study order;
2. Writing off the net amounts of book-tax timing differences that were flowed through in prior years and remain to be turned around in future periods;
3. Writing off the Unamortized Loss on Reacquired Debt;
4. Correction of the reserve deficiency, if any, existing in FPL's fossil dismantlement reserves;
5. Correction of the reserve deficiency, if any, existing in FPL's nuclear decommissioning reserves. Any additional expenses recorded under this plan for nuclear decommissioning shall be funded on an after tax basis. Effective January 1, 1998, all debit deferred taxes resulting from amounts contained in decommissioning funds shall be excluded for surveillance purposes;
6. In the event revenues from the forecast bands are greater than the expenses identified herein, the remaining expenses shall be recorded in an unspecified depreciation reserve to be allocated at a later date.

A comprehensive fossil dismantlement study and a comprehensive nuclear decommissioning study shall be filed by October 1, 1998.

Upon the Commission's own motion or a petition filed with the Commission, the recording of the additional expense under this plan may be altered or terminated by the Commission in the event that legislative, administrative or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida.

FPL 1998 and 1999 Plan

FPL shall record an additional retail expense in 1998 and 1999 equal to 100% of the base rate revenues produced by retail sales between its "low band" (\$3.1409 billion) and "most likely sales forecast" (\$3.2241 billion) and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. Any additional retail expense recorded as a result of this provision will be applied to the retail portion of the following listed in priority order:

1. Correction of any depreciation reserve deficiency resulting from an approved depreciation study order;
2. Writing off the Unamortized Loss on Reacquired Debt;
3. Correction of the reserve deficiency, if any, existing in FPL's fossil dismantlement reserves;
4. Correction of the reserve deficiency, if any, existing in FPL's nuclear decommissioning reserves. Any additional expenses recorded under this plan for nuclear decommissioning shall be funded on an after tax basis. Effective January 1, 1998, all debit deferred taxes resulting from amounts contained in decommissioning funds shall be excluded for surveillance purposes;
5. In the event revenues from the forecast bands are greater than the expenses identified herein, the remaining expenses shall be recorded in an unspecified depreciation reserve to be subject to the Commission's disposition at a later date.

A comprehensive fossil dismantlement study and a comprehensive nuclear decommissioning study shall be filed by October 1, 1998.

Upon the Commission's own motion or a petition filed with the Commission, the recording of the additional expense under this plan may be altered or terminated by the Commission in the event that legislative, administrative or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida.