



30 June 2009

Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

In re: Request for Investigation of Apparent PONZI Scheme by the Florida Power and Light Company in Florida Public Service Commission Docket No. 080677-EI

Dear Mr. Holder:

Saporito Energy Consultants, Inc. (SEC) by and through and with its undersigned president, Thomas Saporito (Saporito) hereby file this formal request for an investigation of an apparent “ponzi” scheme by the Florida Power and Light Company (FPL) in seeking an increase in FPL’s base-rate before the Florida Public Service Commission (FPSC) in Docket No. 080677-EI and state as follows:

Background

By letter dated March 18, 2009, FPL’s President and Chief Executive Officer, Armando J. Olivera, submitted a petition for rate increase to the FPSC seeking “approval of a permanent increase in rates and charges sufficient to generate additional total annual base revenues of \$1.044 billion beginning January 4, 2010 . . . ” and “. . . approval of a subsequent year adjustment . . . to generate additional annual base revenues of \$247.4 million beginning on the first billing cycle day in January 2011. . . The requested increases will provide FPL with a reasonable opportunity to earn a fair rate of return on the Company’s investment in property used and useful in serving its customers, including a 12.5% rate of return on the Company’s common equity, and will support important investments in fuel efficiency, cleaner energy and system reliability. . . ”

Id. at 1.

Basis and Justification for Investigation

By letter dated June 24, 2009, the City Attorney for the City of South Daytona Beach, Florida, Scott Simpson (Simpson), advised the FPSC through the Nabors, Giblin & Nickerson (NGN) law firm¹, in relevant part, that:

¹ See enclosure one.

“ . . . FPL’s only justification for the proposed rate increase was to increase the rate of return to investors to 12.5%. . . FPL has, in my opinion, purposely planned to submit this requested rate increase at a time when the fuel cost recovery pass through is lowering. This allows FPL to represent to the public that the net effect of this base rate increase will be a lower total electric bill. FPL is using the historic fuel costs of last year that are now falling as a way to slip in a base rate increase without the true effect of this rate increase being noticed by the customers. FPL is using a temporary rate decrease in the fuel charges to request a permanent rate increase to the base to the base rate. The bottom line is that without the requested increase to the base rate, in January 2010 the total bill to an FPL customer would decrease by \$16.42 because of a reduction in the fuel charge pass through. . . “

Id. at 1 par 1-2.

“ . . .FPL is requesting a 12.5% rate of return on investment for it [sic] investors. However what is reasonable is not defined. What is the bench mark for determining reasonable? What does the PSC compare this rate of return to in determining whether it is reasonable? Is FPL claiming that it must pay dividends equaling a 12.5% return on the capital investment to attract investors to buy FPL stock? What happens if FPL is able to pay a lower interest rate on debt or a lower dividend rate to stockholders? There is no investment bench mark in today’s economy that would indicate that a 12.5% rate of return is reasonable. Most investor’s would assume such a rate of return must be a ponzi scheme run by Berie Madoff, not a public utility with rates regulated by a state agency. I even think that the current rare of return of 10.88% is excessive. The rate of return that an investment pays is normally tied directly to the amount of risk being assumed by the investor. That is why a Certificate of Deposit pays such a low interest rate, ie. There is little risk with such an investment. What is the amount of risk an investor is assuming by making an investment in FPL? I think the risk is relatively minimal especially given the fact that many of the variable expenses are treated as pass throughs [sic], such a [sic] fuel. Based on a risk analysis, a 12.5% return on investment for an FPL investor is excessive and so is the current rate of return of 10.88% A reasonable rate of return for an FPL investor given the minimal risk that the investor is assuming is probably in the range of 4% to 6%. . . “

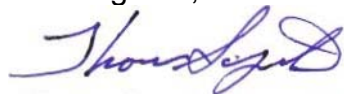
Id. at 2-3, par 3.

Clearly, as explained in Mr. Simpson's letter, FPL's existing rate of return to its investors and stockholders is excessive and should realistically be weighted by the associated risk and more reasonably reset at the 4% to 6% level accordingly. Notably, for all practical purposes, FPL is a monopoly utility in the State of Florida and therefore carries very little risk for its investors and stockholders. Moreover, the national average revenue per "Kilowatthour" as of February, 2009, is (\$9.83 per Kilowatthour).² Here, the State of Florida ranks #37 as compared with all the states in the union at a Kilowatthour rate of (\$11.89 per Kilowatthour) and far above the national average. It is of great concern why the FPSC has approved various electric utility base rate increases over the years to allow the State of Florida to charge its citizens electric rates which are far above the national average.

The economic downturn (recession) currently being felt across the United States has resulted in approximately 10% unemployment in the State of Florida. In addition, Florida leads the nation in the amount of home foreclosures. Notably, Florida citizens are apparently leaving the state in search of employment elsewhere. Yet, despite these facts, FPL seeks a \$1.3 billion dollar increase in their base rate for electricity. The president of the United States, the Hon. Barack Obama, has asked all Americans to tighten their belts in assisting our great country to rebound from the current economic recession. However, FPL's CEO, Lewis Hay III, commands yearly compensation in excess of \$11,500,000.00. It appears that FPL does not desire to tighten its belt while at the same time it seeks an additional \$1.3 billion dollar increase in their base rate.

The federal government has plenary authority to investigate this matter as to whether FPL's petition to the FPSC to increase its base rate by \$1.3 billion dollars violates any existing law or has the effect of a "ponzi" scheme upon the citizens of the State of Florida in unfairly enriching FPL investors and stockholders on the backs of FPL customers at a time when the U.S. economy is struggling to recover. To the extent that the FPSC has consistently allowed various Florida utilities to raise their respective base rates for electrical power over the years in excess of the U.S. national average in kilowatthours, the federal government should also investigate the FPSC's conduct.

Kind regards,



Thomas Saporito
President

² See enclosure two.

Request for Investigation of Apparent PONZI Scheme by the Florida Power and Light Company in Florida Public Service Commission Docket No. 080677-EI

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A copy of the foregoing was provided to:

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Washington, D.C. 20549

Jon Wellinohoff, Chairman
Federal Energy Regulatory Commission
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June 24, 2009

Clerk of the Public Service Commission
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

In Re: FPL Rate Case, Docket No. 080677-EI

To Whom It May Concern:

Attached to this letter is a letter sent by the City Attorney of South Daytona, Scott Simpson, to be placed in the docket file. Should you have any questions, please feel free to contact me.

Sincerely,



Bethany A. Burgess

BB/acg
Attachment

From: simpson66@bellsouth.net [mailto:simpson66@bellsouth.net]
Sent: Wednesday, June 24, 2009 2:45 PM
To: contact@psc.state.fl.us
Cc: Joe Yarbrough; Armstrong, Brian
Subject:

Dear Chairman and Commissioners:

I am the City Attorney for the City of South Daytona and I was present at the June 23rd public hearing at Daytona Beach City Hall. I did not speak during the hearing, but wanted to provide my thoughts to the Commission after hearing the comments that were made by the public and FPL.

- 1) There was not a single public speaker that supported the proposed rate increase by FPL. The individuals that spoke in favor of FPL spoke to FPL's level of service and FPL's involvement in the community. I do not see how this is relevant to FPL's proposed rate increase. There was no evidence presented by FPL that a portion of the revenue from this rate increase would be used to increase community support projects, that without this rate increase FPL's involvement in the community would have to be reduced or that without the rate increase FPL's level of service would be reduced. FPL's only justification for the proposed rate increase was to increase the rate of return to investors to 12.5%.

- 2) FPL has, in my opinion, purposely planned to submit this requested rate increase at a time when the fuel cost recovery pass through is lowering. This allows FPL to represent to the public that the net effect of this base rate increase will be a lower total electric bill. FPL is using the historic fuel costs of last year that are now falling as a way to slip in a base rate increase without the true effect of this rate increase being noticed by the customers. FPL is using a temporary rate decrease in the fuel charges to request a permanent rate increase to the base rate. The bottom line is that without the requested increase to the base rate, in January 2010 the total bill to an FPL customer would decrease by \$16.42 because of a reduction in the fuel charge pass through.

- 3) FPL is requesting a 12.5% rate of return on investment for its investors. FPL is allowed to make a reasonable rate of return. However what is reasonable is not defined. What is the benchmark for determining reasonable? What does the PSC compare this rate of return to in determining whether it is reasonable? Is FPL claiming that it must pay a 12.5% interest rate on bonds to be able to attract investors to buy bonds? Is FPL claiming that it must pay dividends equalling a 12.5% return on the capital investment to attract investors to buy FPL stock? What happens if FPL is able to pay a lower interest rate on debt or a lower dividend rate to stockholders? There is no investment benchmark in today's economy that would indicate that a 12.5% rate of return is reasonable. Most investors would assume such a rate of return must be a ponzi scheme run by Bernie Madoff, not a public utility with rates regulated by a state agency. I even think that the current rate of return of 10.88% is excessive. The rate of return that an investment pays is normally tied directly to the amount of risk being assumed by the investor. That is why a Certificate of Deposit pays such a low interest rate, i.e. there is little risk with such an investment. What is the amount of risk an investor is assuming by making an investment in FPL? I think the risk is relatively minimal especially given the fact that many of the variable

expenses are treated as pass throughs, such a fuel. Based on a risk analysis, a 12.5% return on investment for an FPL investor is excessive and so is the current rate of return of 10.88%. A reasonable rate of return for an FPL investor given the minimal risk that the investor is assuming is probably in the range of 4% to 6%.

Thank you for the opportunity to share my thoughts.

Scott E. Simpson
595 West Granada Blvd.
Suite A
Ormond Beach, FL 32174
Telephone 386-677-3431
Facsimile 386-673-0748

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic and U.S. Mail to the service list below, on this 24th day of June, 2009.

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BETHANY A. BURGESS

ENCLOSURE TWO

Electricity Rate Comparison by State

Nebraska is the only state that generates electricity entirely by publicly-owned power systems. As of February, 2009, the statewide average price for all sectors from all electric utilities is the eighth-lowest rate in the country, based on the latest federal figures. Nationally, electricity costs 47 percent more than it does in Nebraska. Across all sectors, Hawaii has the highest electricity rate (21 cents), and Wyoming has the lowest electricity rate (5.88 cents).

A comparison of electricity rates within individual sectors in all states can be found in the report [Average Revenue per Kilowatthour from Retail Sales to Ultimate Consumers by Sector and by State](#). The table below provides the monthly average across all sectors. The [Electric Sales, Revenue, and Price Report](#) published by the Energy Information Administration provides an [annual average](#) for each sector and across all sectors for each state and has been mapped for all [sectors](#) and for the individual [residential](#), [commercial](#), and [industrial](#) sectors.

The [archive](#) has reports from prior months.

Average Revenue per Kilowatthour by State
(Lowest to Highest Rate as of February 2009)

Rank	State	Average Electricity Rate for All Sectors (Cents per Kilowatthour)
1	Wyoming	5.88
2	Idaho	6.14
3	Utah	6.26
4	North Dakota	6.44
5	Missouri	6.46
6	West Virginia	6.62
7	Kentucky	6.63
8	Nebraska	6.67
9	Washington	6.98
10	Iowa	6.99
11	South Dakota	7.05
12	Montana	7.26
13	Indiana	7.62
14	Oklahoma	7.67
15	Oregon	7.70
16	Colorado	7.80
17	Arkansas	7.96
18	Minnesota	8.00
19	Kansas	8.03

Electricity Rate Comparison by State

20	Louisiana	8.20
21	South Carolina	8.32
22	New Mexico	8.41
23	North Carolina	8.53
24	Ohio	8.55
25	Arizona	8.65
26	Georgia	8.79
27	Alabama	8.87
28	Tennessee	8.92
29	Mississippi	8.98
30	Virginia	9.01
31	Michigan	9.23
32	Illinois	9.34
33	Wisconsin	9.49
34	Nevada	9.56
35	Pennsylvania	9.64
	National Average	9.83
36	Texas	10.73
37	Florida	11.89
38	Delaware	12.06
39	California	12.45
40	Vermont	12.78
41	Maryland	13.45
42	District of Columbia	13.68
43	New Jersey	14.45
44	Maine	14.47
45	Alaska	14.64
46	New York	15.27
47	New Hampshire	15.50
48	Massachusetts	16.05
49	Rhode Island	16.20
50	Connecticut	17.55
51	Hawaii	20.54

Source: *Electric Power Monthly*. Energy Information Administration, Washington, DC. Nebraska Energy Office, Lincoln, NE.

This table was updated on June 5, 2009. Typically, there is one month between updates.

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