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December 11, 2018

-VIA ELECTRONIC FILING-

Carlotta Stauffer, Director
Division of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 20180046-EI – Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Florida Power & Light Company

Dear Ms. Stauffer:

Attached for electronic filing in the above docket is Florida Power & Light Company's rebuttal testimony of witness Scott Bores.

Please contact me if you have or your Staff has any questions regarding this filing.

Sincerely,

s/ Maria J. Moncada
Maria J. Moncada

Attachment

cc: Counsel for Parties of Record

CERTIFICATE OF SERVICE
Docket No. 20180046-EI

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished
by electronic service on this 11th day of December 2018 to the following:

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By: s/ Maria J. Moncada
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1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **REBUTTAL TESTIMONY OF SCOTT R. BORES**

4 **DOCKET NO. 20180046-EI**

5 **DECEMBER 11, 2018**

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1 **Q. Please state your name and business address.**

2 A. My name is Scott R. Bores. My business address is Florida Power & Light
3 Company, 700 Universe Boulevard, Juno Beach, Florida 33408.

4 **Q. Did you previously submit direct testimony in this proceeding?**

5 A. Yes.

6 **Q. Are you sponsoring any rebuttal exhibits in this case?**

7 A. No.

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. The purpose of my rebuttal testimony is to address the proposed adjustments
10 to Florida Power and Light Company's ("FPL") forecasted 2018 base revenue
11 requirements as a result of the Tax Cuts and Jobs Act of 2017 ("Tax Act"), as
12 recommended by Office of Public Counsel ("OPC") witness Ralph Smith.

13 **Q. Please summarize your rebuttal testimony.**

14 A. OPC witness Smith recommends several adjustments to FPL's proposal to
15 account for the unprotected excess deferred income taxes that would result in
16 the accelerated turnaround of those balances. My rebuttal testimony reaffirms
17 that FPL's proposal to utilize the Average Rate Assumption Method
18 ("ARAM") for the property related unprotected excess deferred income taxes
19 and the Reverse South Georgia Method ("RSGM") for the non-property
20 related unprotected excess deferred income taxes is reasonable. However,
21 there is no accounting restriction or other significant concern in this instance
22 regarding Mr. Smith's proposed adjustments. Accordingly, FPL has no
23 objection to Mr. Smith's proposed approach to amortization if adopted by the

1 Commission. Additionally, my rebuttal testimony explains that Mr. Smith's
2 recommendation that FPL seek a private letter ruling ("PLR") from the
3 Internal Revenue Service ("IRS") with regard to FPL's treatment of the excess
4 deferred income taxes related to cost of removal as protected, is impractical
5 and not useful. Finally, my rebuttal testimony will reaffirm that customers
6 have benefitted from FPL's utilization of tax reform savings to offset
7 Hurricane Irma restoration costs.

8 **Q. On pages 9 and 10, and further on page 18 of his testimony, witness**
9 **Smith recommends FPL's unprotected property-related excess deferred**
10 **income taxes be amortized using a 10-year straight-line approach rather**
11 **than FPL's proposed ARAM approach, which results in a \$41.46 million**
12 **adjustment to income tax expense. Is this adjustment reasonable?**

13 A. Yes, both FPL and OPC witness Smith have presented reasonable approaches
14 to address the unprotected property-related excess deferred income taxes.
15 While there is no specific guidance from the IRS on the treatment of
16 unprotected property-related excess deferred income taxes, FPL's proposal to
17 utilize ARAM is reasonable. The IRS requires, under normalization rules,
18 that all protected property-related excess deferred income taxes be amortized
19 utilizing ARAM. From both a substantive and consistency standpoint, FPL
20 believes it would be appropriate to treat all property-related timing differences
21 in the same manner, regardless of whether they are subject to the IRS
22 normalization rules. However, there is no accounting restriction or other
23 significant concern in this instance regarding the 10-year straight-line

1 amortization approach recommended by OPC witness Smith. Accordingly,
2 FPL has no objection to Mr. Smith's position if adopted by the Commission.

3 **Q. Does witness Smith agree with FPL's proposed amortization for**
4 **unprotected non-property-related excess deferred income taxes items**
5 **with useful lives of up to ten years?**

6 A. Yes. Witness Smith does not recommend an alternative amortization period
7 for unprotected non-property-related excess deferred income taxes items with
8 "turn periods" of up to ten years.

9 **Q. On pages 12 and 13, and further on page 18, OPC witness Smith**
10 **recommends that amortization periods of greater than ten years for**
11 **FPL's unprotected non-property-related excess deferred income taxes be**
12 **capped at ten years, resulting in a \$10.8 million adjustment to income tax**
13 **expense. Is this adjustment reasonable?**

14 A. Yes. As with unprotected property-related excess deferred income taxes,
15 while FPL's proposal is reasonable, there is no accounting restriction or other
16 significant concern in this instance regarding OPC witness Smith's
17 recommendation to cap at ten years the amortizations periods for non-
18 property-related excess deferred income taxes. Accordingly, FPL has no
19 objection to Mr. Smith's position if adopted by the Commission.

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1 **Q. On page 20, lines 1 through 8, witness Smith states that increased 2018**
2 **excess deferred income tax amortization could require higher sources of**
3 **investor-supplied capital to support rate base. If the Commission adopts**
4 **witness Smith’s recommended adjustments, what would be the impact to**
5 **FPL’s forecasted 2018 revenue requirements?**

6 A. Replacing deferred taxes with additional investor sources of capital would
7 increase FPL’s 2018 forecasted revenue requirements by \$2.505 million;
8 however, this would have no impact on rates as FPL is operating under its
9 2016 rate case settlement agreement (the “Settlement Agreement”).

10 **Q. Please explain the negative net salvage component of FPL’s depreciation**
11 **expense and describe how it is accounted for in the system.**

12 A. FPL utilizes a financial system called “PowerPlan” to record book
13 depreciation expense. PowerPlan calculates book depreciation expense based
14 on Commission-approved depreciation rates, which includes negative net
15 salvage as a component. Negative net salvage is comprised of two items:
16 1) cost of removal and 2) salvage. FPL’s version of PowerPlan calculates one
17 combined rate for negative net salvage. As result of this system limitation,
18 FPL cannot separately track the cost of removal rate from the salvage rate.

19 **Q. Has the IRS provided any guidance regarding the tax treatment of**
20 **salvage?**

21 A. Yes. The salvage component is part of a property-related assets depreciation
22 basis, and is therefore subject to IRS normalization rules and is classified as
23 protected. FPL acknowledges that cost of removal is *not* a component of a

1 property-related assets depreciation basis and, therefore, is not subject to IRS
2 normalization rules.

3 **Q. How does FPL treat negative net salvage in light of PowerPlan's**
4 **limitations?**

5 A. Because FPL does not have the ability within PowerPlan to segregate the cost
6 of removal portion of excess deferred income taxes from those of salvage, it
7 has elected to treat the entire negative net salvage balance as protected to
8 avoid any potential risk associated with a violation of IRS normalization rules.
9 Additionally, FPL has proposed to utilize ARAM for *all* property-related
10 timing differences.

11 **Q. Please quantify the amount of FPL's excess deferred income taxes related**
12 **to negative net salvage.**

13 A. FPL currently has an excess deferred income tax balance of approximately
14 \$20 million classified as a regulatory asset within FPL's capital structure.

15 **Q. Do you agree with OPC witness Smith that FPL should possibly seek a**
16 **PLR from the IRS regarding its classification of excess deferred income**
17 **taxes related to negative net cost of removal/ salvage?**

18 A. No. FPL should not seek a PLR because, as I just described, FPL does not
19 have the ability within PowerPlan to isolate the cost of removal component of
20 negative net salvage. Therefore, regardless of whether cost of removal is
21 classified as protected or unprotected, the impact must be turned-around using
22 ARAM to avoid a normalization violation. Without the ability to treat cost of
23 removal using a different methodology, obtaining a PLR would offer no

1 practical distinction or opportunity for FPL to implement an alternate
2 approach.

3 **Q. On page 15, lines 9 and 10, OPC witness Smith asserts that FPL wants to**
4 **retain all of the tax savings related to its base rate revenue requirement**
5 **and return none of this money directly to customers. Is this true?**

6 A. No. Witness Smith's statement is wrong. FPL's proposed treatment
7 provided customers an immediate benefit in the form of an avoided
8 surcharge, related to Hurricane Irma storm restoration costs, of no less than
9 \$4.00 a month on a typical 1,000 kWh residential bill over a three-year
10 period, for a total avoided increase of approximately \$1.3 billion.

11 **Q. Please describe how FPL achieved this customer benefit.**

12 A. FPL utilized the flexibility contained in its existing rate case Settlement
13 Agreement to provide an immediate cash benefit to customers. Specifically,
14 in December 2017, FPL made the decision to forgo requesting a storm
15 surcharge for the approximately \$1.3 billion of Hurricane Irma restoration
16 costs. That decision resulted in FPL immediately expensing those deferred
17 storm costs. Concurrently, FPL utilized all of its remaining Reserve Amount
18 to partially offset the approximately \$1.3 billion of Hurricane Irma
19 restoration costs. The purpose of the Settlement Agreement's flexible use of
20 Reserve Amortization is to enable FPL to stay within the authorized range of
21 earnings. This helps ensure that the Settlement Agreement can remain in
22 effect over at least the four-year term referenced in the agreement as the
23 Minimum Term. The stated range of earnings is authorized irrespective of
24 the specific type of expense or revenue, unless otherwise provided for in the

1 Settlement Agreement. Subsequent to having taken steps to avoid customers
2 paying a surcharge for Irma restoration costs, FPL will continue to use the
3 Reserve Amortization mechanism to maintain its earnings within the
4 authorized range of 9.6% to 11.6%. It is anticipated that the reduction in tax
5 expense resulting from the Tax Act will enable FPL to partially rebuild the
6 Reserve Amount and maintain all of the benefits of the Settlement Agreement
7 for customers. Using this approach, customers directly and promptly
8 received the benefit from the tax savings. Further, by pursuing this approach,
9 FPL expects to defer its next base rate case for at least one additional year
10 beyond the Minimum Term of the Settlement Agreement.

11 **Q. Did FPL file its 2017 federal income tax return?**

12 A. Yes. FPL filed its 2017 federal income tax return on October 15, 2018.

13 **Q. Are there any changes to FPL's excess deferred income taxes as a result
14 of the completion of FPL's 2017 federal income tax return?**

15 A. Yes, FPL adjusted its excess deferred income tax balance as a result of the
16 compilation and review of its 2017 federal income tax return. The effects of
17 the adjustment were appropriately recorded by FPL in the actual financial
18 results that were reflected in FPL's September 2018 earnings surveillance
19 report. The adjustment resulted in an increase of \$10.0 million in the
20 protected excess deferred income taxes and a decrease of \$9.9 million in the
21 unprotected excess deferred income taxes, for a total net increase in FPL's
22 excess deferred income taxes of \$0.1 million.

23

1 **Q. Does FPL plan to true up the estimated revenue requirement impact of**
2 **the Tax Act on its 2018 forecasted financial results?**

3 A. No, as I noted previously, FPL has appropriately accounted for the effects
4 associated with the 2017 federal income tax return by reflecting them in the
5 September 2018 earnings surveillance report.

6 **Q. Does this conclude your rebuttal testimony?**

7 A. Yes.