

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.

DOCKET NO. 080677-EI

In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 090130-EI

ORDER NO. PSC-09-0552-PCO-EI

ISSUED: August 6, 2009

ORDER ALLOWING MEMORANDA ON ADDITIONAL ISSUES

On November 17, 2008, Florida Power & Light Company (FPL) filed a test year letter, as required by Rule 25-6.140, Florida Administrative Code (F.A.C.), notifying this Commission of its intent to file a petition in the Spring of 2009 for an increase in rates effective January 1, 2010. Pursuant to the provisions of Chapter 366, Florida Statutes (F.S.), and Rules 25-6.0425 and 25-6.043, F.A.C., FPL filed the petition for an increase in rates on March 18, 2009. On March 20, 2009, Order No. PSC-09-0159-PCO-EI (Order Establishing Procedure) was issued, scheduling the matters for an administrative hearing on August 24 – 28, 31, and September 2 – 4, 2009. Office of Public Counsel (OPC), South Florida Hospital and Healthcare Association (SFHHA), IBEW System Council U-4 (SCU-4), Florida Retail Federation (FRF), Thomas Saporito (Saporito), Florida Industrial Power Users Group (FIPUG), City of South Daytona (CSD), Attorney General's Office (AG), Federal Executive Agencies (FEA), Associated Industries of Florida (AIF), and Florida Association for Fairness in Rate Making (AFFIRM) have each been granted intervention in this docket.

On July 28, 2009, the Commission staff conducted a meeting with the parties to discuss the tentative list of issues for determination by the Commission in this docket. After the initial meeting to discuss the list of issues, the parties and staff have continued to work together to reach consensus on the framing of the issues. The Commission staff conducted a continuation of the meeting with the parties on July 31, 2009, to finalize the list of issues in advance of the August 17, 2009, prehearing conference.

During the issue identification meeting, the parties and staff could not reach consensus on several proposed issues. The parties and staff agreed that those proposed issues should be referred to the Prehearing Officer for determination. Accordingly, to facilitate rulings that will be necessary at the August 17, 2009, prehearing conference, all parties are encouraged to file a memorandum setting forth the rationale for the inclusion, exclusion, or modification of the proposed issues, including an explanation of why the proposed issue is or is not subsumed in another issue. The parties may be requested (but should not rely on the opportunity) to provide oral argument at the prehearing conference regarding any issue(s). The following are the proposed issues:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

2010 PROPOSED TEST PERIOD

ISSUE 1: Whether the FPSC has jurisdiction under Florida law at Sections 366.06(1) and 367.08(2) to consider FPL's petition for a rate increase based on FPL's projected 2010 test-year period of the 12-months starting January 1, 2010 and ending December 31, 2010 supported by future speculative projections of costs and investments used and useful in the public service? (Proposed by Saporito)

2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD

ISSUE 4: Whether the FPSC has jurisdiction under Florida law at Sections 366.06(1) and 367.08(2) to consider FPL's petition for a rate increase based on FPL's projected 2011 test-year period of the 12-months starting January 1, 2011 and ending December 31, 2011 supported by future speculative projections of costs and investments used and useful in the public service? (Proposed by Saporito)

DEPRECIATION STUDY

ISSUE 21: Is FPL's proposed accelerated capital recovery appropriate? (Proposed by FIPUG)

ISSUE 22: What life spans should be used for FPL's coal plants? (Proposed by FIPUG)

ISSUE 23: What life spans should be used for FPL's combined cycle plants? (Proposed by FIPUG)

ISSUE 24: What are the appropriate depreciation rates? (Proposed by CSD)

ISSUE 25: Has FPL applied appropriate life spans to categories of production plant when developing its proposed depreciation rates? (Note: To date, the parties have identified the following categories of production plant as sub issues)

Coal-fired production units

Large steam oil or gas-fired generating facilities

Combined cycle generating facilities (Proposed by OPC)

ISSUE 26: Has FPL applied the appropriate methodology to calculate the remaining life of production units? (Proposed by OPC)

ISSUE 27: Has FPL appropriately quantified the level of interim retirements associated with production units? If not, what is the appropriate level, and what is the related impact on depreciation expense for generating facilities? (Proposed by OPC)

ISSUE 28: Has FPL incorporated the appropriate level of net salvage associated with the interim retirements that are estimated to transpire prior to the final termination of a generating station or unit? If not, what is the appropriate level? (Proposed by OPC)

ISSUE 29: Has FPL quantified the appropriate level of terminal net salvage in its request for dismantlement costs? If not, what is the appropriate level? (Proposed by OPC)

ISSUE 30: Has FPL applied appropriate life characteristics (curve and life) to each mass property account (transmission, distribution, and general plant) when developing its proposed depreciation rates?

(Note: To date, the parties have identified the following accounts as sub issues)

- a. 350.2 Transmission Easements
- b. 353 Transmission Substation Equipment
- c. 353.1 Transmission Substation Equipment Step-Up Transformers
- d. 354 Transmission Towers & Fixtures
- e. 356 Transmission Overhead Conductor
- f. 359 Transmission Roads and Trails
- g. 362 Distribution Substation Equipment
- h. 364 Distribution Poles, Towers & Fixtures (Proposed by OPC)

ISSUE 31: Has FPL applied appropriate net salvage levels to each mass property (transmission, distribution, and general plant) account when developing its proposed depreciation rates? (Note: To date, the parties have identified the following accounts as sub issues)

- a. 353 Transmission Station Equipment
- b. 354 Transmission Tower & Fixtures
- c. 355 Transmission Poles & Fixtures
- d. 356 Transmission Overhead Conductors
- e. 364 Distribution Poles, Towers & Fixtures
- f. 365 Overhead Conductors & Devices
- g. 366.6 Underground Conduit – Duct System

- h. 367.6 Underground Conductor – Duct System
- i. 368 Distribution Line Transformers
- j. 369.1 Distribution Services – Overhead
- k. 369.7 Distribution Services – Underground
- l. 370 Distribution Meters
- m. 370.1 Distribution Meters – AMI
- n. 390 General Structures & Improvements
(Proposed by OPC)

ISSUE 32: What are the appropriate depreciation rates for FPL, and what amount of annual depreciation expense should the Commission include in Docket 080677-EI for ratemaking purposes? (Proposed by OPC)

ISSUE 35: What steps should the Commission take to restore generational equity? (Proposed by FIPUG)

ISSUE 36: What considerations and criteria should the Commission take into account when evaluating the time frame over which it should require FPL to amortize the depreciation reserve imbalances that it determines in this proceeding? (Proposed by OPC)

ISSUE 37: What would be the impact, if any, of the parties' respective proposals with respect to the treatment of the depreciation reserve imbalances on FPL's financial integrity? (Proposed by OPC)

ISSUE 38: What is the appropriate disposition of FPL's depreciation reserve imbalances? (Proposed by OPC)

RATE BASE

ISSUE 48: Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate? (Proposed by CSD)

ISSUE 49: Should FPL's estimated plant in service be reduced to reflect the actual capital expenditures implemented in 2009 on an annualized basis carried forward into the projected test Year(s) and for reductions of a similar magnitude?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?
(Proposed by SFHHA)

ISSUE 50: Whether FPL's petition for a rate increase is prudent and necessary to make investments used and useful in the public service?
(Proposed by Saporito)

COST OF CAPITAL

- ISSUE 65:** Should FPL be required to use the entire amount of customer deposits and ADIT related to utility rate base in its capital structure? (Proposed by SFHHA)
- ISSUE 72:** Do FPL's power purchase contracts justify or warrant any changes to FPL's capital structure in the form of imputed debt or equity for ratemaking purposes?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?
(Proposed by FRF and FIPUG)
- ISSUE 74:** Has the fuel adjustment clause decreased FPL's cost of equity and, if so, by how many basis points? (Proposed by CSD)
- ISSUE 75:** Has the nuclear cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? (Proposed by CSD)
- ISSUE 76:** Has the conservation cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? (Proposed by CSD)
- ISSUE 77:** Has the environmental cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? (Proposed by CSD)
- ISSUE 78:** Has the Generation Base Rate Adjustment reduced FPL's cost of equity and, if so, by how many basis points? (Proposed by CSD)
- ISSUE 79:** Is it appropriate to adjust the equity cost rate for flotation costs? (Proposed by OPC)

NET OPERATING INCOME

- ISSUE 104:** Should an adjustment be made to FPL's level of executive compensation?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?
(Proposed by OPC)
- ISSUE 105:** Should an adjustment be made to FPL's level of non-executive compensation?
A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?
(Proposed by OPC)

ISSUE 110: Is an adjustment appropriate to the allocation factor for FPL Group's executive costs? (Proposed by OPC)

ISSUE 111: Are any adjustments necessary to FPL's Affiliate Management Fee Cost Driver allocation factors? (Proposed by OPC)

ISSUE 112: Are any adjustments necessary to FPL's Affiliate Management Fee Massachusetts Formula allocation factors? (Proposed by OPC)

ISSUE 113: Are any adjustments necessary to the costs charged to FPL by FiberNet? (Proposed by OPC)

ISSUE 114: Should an adjustment be made to allow ratepayers to receive the benefit of FPLES margins on gas sales as a result of the sale of FPL's gas contracts to FPLES? (Proposed by OPC)

ISSUE 115: Is an adjustment appropriate to recognize compensation for the services that FPL provides to FLPES for billing on FPL's electric bills? (Proposed by OPC)

ISSUE 116: Is an adjustment appropriate to recognize compensation for the services that FPL provides to FLPES to the extent that FPL service representatives provide referrals or perform similar functions for FPLES? (Proposed by OPC)

ISSUE 116a: Is an adjustment necessary to reflect the gains on sale of utility assets sold to FPL's non-regulated affiliates? (Proposed by OPC)

ISSUE 117: Is an adjustment appropriate to increase power monitoring revenue for services provided by FPL to allow customers to monitor their power and voltage conditions? (Proposed by OPC)

ISSUE 118: What is the total operating income impact of affiliate adjustments, if any, that is necessary for the 2010 test year? (Proposed by OPC)

REVENUE REQUIREMENTS

ISSUE 138: Whether FPL's rates should be decreased by \$1.3 billion dollars? (Proposed by Saporito)

ISSUE 167: What should the CDR credit be set at? (Proposed by FIPUG)

ISSUE 169: Has FPL carried its burden of proof as to the legality and appropriateness of the proposed commercial time of use rates? (Proposed by AFFIRM)

ISSUE 170: Should FPL be directed to develop a prepayment option in lieu of monthly billing for those customers who can benefit from such an alternative? (Proposed by OPC)

ISSUE 171: What is a fair and reasonable rate for the customers of Florida Power and Light Company? (Proposed by AG)

OTHER ISSUES

ISSUE 174: Should FPL be required to reduce base rates on January 1, 2014, to recognize the change in the separation factor resulting from the increased wholesale load served under the Lee County Contract? (Proposed by Commission Staff)

ISSUE 175: Should an adjustment be made to FPL's revenue forecast as a result of the PSC's decision in the DSM Goals Docket, Docket No. 080407-EG? If so, what adjustment should be made? (Proposed by FPL)

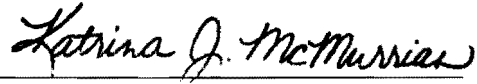
Upon review, there are 46 issues for which the Prehearing Officer has been requested to make a determination. The issues are proposed by 8 parties and by staff and encompass many different and complex subject areas. To assist the Prehearing Officer in reaching a decision on the inclusion, exclusion or modification of issues in an efficient manner, all parties shall be permitted to file memorandum in support of their positions. Parties are encouraged to include in their memorandum all information on which they rely to support their position, including why an issue is or is not subsumed in other issues. Parties are notified that the Prehearing Officer may rule upon the inclusion of proposed issues by a separate Order, prior to the pre-hearing based on the memoranda filed by the parties. Such memorandum shall be filed no later than close-of-business on Tuesday, August 11, 2009.

Based upon the foregoing, it is

ORDERED by Commissioner Katrina J. McMurrian, as Prehearing Officer, that the parties may file a memorandum on the issues as discussed above by August 11, 2009.

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By ORDER of Commissioner Katrina J. McMurrin, as Prehearing Officer, this 6th
day of August, 2009.



KATRINA J. McMURRIAN
Commissioner and Prehearing Officer

(SEAL)

LCB

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.