\BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of 2025 depreciation study and for approval to amortize reserve imbalance, by Florida City Gas.	Docket No. 20250035-GU Filed: January 7, 2026

POST-HEARING BRIEF OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel ("Citizens" or "OPC"), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2025-0366-PCO-GU, issued October 2, 2025, "), Order No. PSC-2025-0428-PCO-GU, issued November 20, 2025, and Order No. PSC-2025-0444-PCO-GU, issued December 9, 2025, hereby submit this Post-Hearing Brief.

SUMMARY OF THE EVIDENCE

A. Introduction and Background.

This is the case of the incredible expanding and shrinking depreciation reserve. The case should never have been filed. The Commission is presented with what is superficially a request for a determination on depreciation parameters, rates, and costs. The docket only exists to facilitate the attempted establishment of a surplus theoretical depreciation reserve balance for the improper purpose of enhancing shareholder profits at the expense of customers. The achievement and recognition of an imbalance is the likely desired outcome, instead of it just being a fallout of the establishment of depreciation parameters. Identification of a material and amortizable surplus is the central theme of the Petition. This result is upside down. It is backwards. It is not at all the intended outcome of a depreciation study. The very issue is pending before the Florida Supreme Court. Rejection and dismissal of the Florida City Gas' ("FCG") Petition is the only valid outcome in this docket.

Despite the title of the case, the true nature of the case is one of earnings clothed in what is claimed to be a depreciation study. A full depreciation study was not even filed. TR 277-279. What ***was*** originally filed appears to be nothing more than a thinly veiled attempt to capture approximately $27 million of depreciation surplus set aside from the last rate case. That extra surplus just happened to also be $27.1 million. To the extent a depreciation surplus exists, whether it is the $19.2 million now claimed by FCG or the $6.9 million described by Commission Staff ("Staff"), any surplus that exists should go to the direct benefit of the ratepayers. All parties,

including the Staff, FCG and the OPC stated that a depreciation reserve surplus represents overpayment or overcollection of depreciation expense by customers. TR 57, 258, 327. However, under the FCG proposal, all of the $19.2 million to be taken out of the depreciation reserve would go to the earnings, and not one penny of it would go the ratepayers. TR 258, 317-318, 383-385. The Company shareholder wants to get its hands on those overpayments. Its basis for this is an unsupported and unverified claim of poor earnings.

Regarding the money in the Depreciation Reserve (Account 108) the Uniform System of Accounts states the following:

> ***It shall not transfer any portion of this account to retained earnings*** or make any other use thereof without authorization by the Commission.

(Emphasis added). TR 265. The FCG proposal to move $19.2 million from the Depreciation Reserve into earnings is improper.

What happens here is similar to a mortgage. For example, assume you took out a mortgage for $100,000. You have to pay interest on the remaining balance, so you start off paying interest on $100,000. After several years, you have paid off $40,000, so now you are paying interest on the $60,000 unpaid balance. If the bank owner took $10,000 out of your account and put that $10,000 into his or her pocket, now it looks like you only paid off $30,000, so now you owe interest on $70,000 unpaid balance. TR 316

In regulation, the depreciation reserve is the account which records how much the ratepayers have paid off. So if $19.2 million is removed from the depreciation reserve, that will increase the unpaid balance by $19.2 million. This means the ratepayers will have to pay a rate of return on an additional $19.2 million in the coming rate case. TR 316-317; EXH 35, MPN E2388.

FCG witness Patricia Lee agreed that if $19.2 million is taken out of the depreciation reserve, that would increase FCG's required net operating income by approximately $1.2 million per year, which would result in an increase of approximately $1.7 million per year when the markup for income tax effects are included. TR 223-226, 260.

FCG presents Earnings Surveillance Reports claims intended to cajole the Commission into supporting the FCG Petition. FCG's earnings deficiency claims are unlikely to have been caused by outside forces and may not be recoverable from customers, given the circumstances surrounding acquisition of FCG from FPL by Chesapeake Utilities Corporation ("Chesapeake") in

the last month of 2023 and the resulting recording of the transaction and its associated costs on FCG's books. The evidence also demonstrates that the depreciation filing made by the Company is riddled with errors, deficient in material respects, does not meet the Commission's established requirements, contains biased assumptions, and cannot form the basis for the relief sought. It was rushed and should be discarded.

While denying "that a consideration of its earnings should be part of the Commission's standard review and processing of depreciation studies" or that it is part of their request in this case, FCG nevertheless claims that the earnings levels presented in FCG's "most recent twelve months ended June 2025 earnings surveillance report and its pro-forma 2024 year-end report" should be considered as supporting the FCG proposal. TR 118, 226-228; EXH 27, MPN E51. This is one of the more confounding aspects of this case. The OPC agrees that earnings should not be a part of this case – that is for a rate case.

It is important to note that FCG admits that even if the FCG filing in this case is approved as filed, or as now modified, the Company still anticipates the need to file its next base rate case within a year. Approving this FCG filing does not eliminate an FCG base rate case being filed within a year. We recommend this case be dismissed and the Company be required to file a correct depreciation study along with the coming base rate case.

B. <u>This Case Violates the Four-Year Stay Out</u>.

Aside from the identity crisis the case suffers, it is dangerously entangled in a pending Florida Supreme Court case that should cause the Commission to proceed with great caution or, preferably, not at all.[1] Furthermore, tangentially related to the Florida Supreme Court issue, the filing runs directly afoul of a commitment the Company made, and the Commission accepted in 2023, to prudently use no more than a $25 million portion of a depreciation reserve imbalance and an amortization mechanism and stay out for four years. TR 144. In the (still) non-final 2023 FCG

[1] The two motions that the OPC filed in this case challenging the jurisdiction were denied by the Commission in Order Nos. PSC-2025-0102-PCO-GU, issued April 1, 2025 and PSC-2025-0360-PCO-GU, issued September 24, 2025. The OPC reasserts the assertions made regarding the lack of jurisdiction in OPC's Motion to Hold Proceedings in Abeyance, filed February 27, 2025, Document No. 01166-2025, filed in this Docket 20250035-GU; Citizens' Motion for Reconsideration, filed April 11, 2025. Document No. 02777-2025 in this Docket. The OPC preserves these objections for any appeal that might be taken.

Order[2] on appeal and pending the Court's decision, a $52 million surplus was created and a Reserve Amount of $25 million was carved out of the overall surplus for FCG's owners to use with a Reserve Surplus Amortization Mechanism ("RSAM") to supplement or enhance earnings. 2023 FCG Order at 17. FCG told the Commission then that their fully discretionary use of the customer-provided overpayments would allow them to avoid coming back in for rate relief for four years (*i.e.*, for rates effective no sooner than June of 2027). 2023 FCG Order at 5-6. The Commission accepted that commitment. TR 148; 2023 FCG Order at 6. Receiving $19.2 million of customer money to boost earnings is a form of rate relief.

FCG witness Matt Everngam acknowledged that FCG told "the Commission in the 2022 rate case that if the Commission produced a surplus using another company's stipulated parameters and allowed FCG to create an RSAM, that FCG would be able to stay out for four years and manage its Earnings to earn at at least the midpoint ROE." TR 144. He also agreed that "as far as the Commission is concerned, the FCG that is here today is the same one that was discussed in the commitments and acceptances that we reviewed in the 2023 FCG rate order." TR 151. Witness Everngam also acknowledged that after the acquisition Chesapeake continued to take advantage of the benefits of the RSAM and associated $25 million Reserve Amount and cannot pick and choose what parts of the order to comply with. TR 153.

Both sets of ownership of FCG utilized that mechanism and the $25 million, under the authority of that same order authorizing it. TR 155-157; EXH 55 MPN F1-249. Both owners benefited from the order. Now, because of its own actions, the current owner, standing in the shoes of the previous owner (TR 156) wants to effectively be relieved of the accepted commitment memorialized in the order and to receive rate relief. The Commission specifically told this company that the $27 million of unappropriated surplus would "remain on the books until the Company files its next depreciation study." TR 145-146; 2023 FCG Order at 17. FCG's depreciation study was not due to be filed until May 31, 2027. TR 79-80.

At hearing, FCG attempted to point the Commission to some language in the 2023 FCG Order insinuating that the Company had been invited to return to the agency to ask for more money despite the commitments that were made and accepted. TR 235. Nothing of the sort is, in fact, contained in the 2023 FCG Order. The agency is well aware of the representations that were, and

[2] Order No. PSC-2023-0177-FOF-GU, issued June 9, 2023 in Docket No. 20220069-GU, *In Re: Petition for rate increase by Florida City Gas.* ("2023 FCG Order").

have been, made about the exact nature of the then owner and original RSAM architect's commitment to stay out for four years and how any breach of such a commitment might be perceived by the Commission. It is clear that no nuclear bomb or catastrophic, unanticipated major loss of customer base, or inflation of 10%, or other factor outside the control of FCG has occurred that relieves FCG of its 2023 stayout commitment or entitles them to the additional depreciation surplus.

In 2023, the Commission was not informed that acquisitions and integration activities would burn through the $25 million Reserve Amount. The pending filing of a superficial study to claim at least $19.2 million of the other $27.3 million for shareholders within the four-year stay out period was not contemplated or reflected in the 2023 FCG Order. It is also clear that no one from FCG told the Commission in the 2022 hearing that the Company might be up for sale, despite the fact of the proximity of the sale to the Commission's decision.[3] There is nothing in the 2023 FCG Order indicating that the Commission contemplated FCG being subsequently sold off in the 110 days between the order's issuance and the public announcement of the sale.[4] No one told the Commission in 2022 that FCG might be sold at double its net book value in a manner that could put upward pressure on the Company or its parent's earnings. The Commission was not told that the now current owner might be injecting higher costs into the financial profile of FCG or seeking to recover acquisition costs in advance of any prudence determination. The only thing that was said was that in exchange for receiving $25 million of a $52 million depreciation reserve surplus, FCG would stay out for four years. The Company is here now apparently seeking to escape this commitment in the guise of a sudden need to revise depreciation parameters through an anomalous filing that is inconsistent with its established practice of filing depreciation studies on the schedule contemplated by the Commission's depreciation rule. TR 70-75

The fact of the merger and any financial impact cannot be a basis for the Commission to wave off the stay out commitment or the requirement to make the $25 million Reserve Amount last the duration of the four years. FCG has agreed that they are not requesting that the merger be

[3] No one told the Commission in the FCG 2022 rate cases that a merger was in the offing. There is no evidence that it was placed in the record, but by the same token the Commission did not indicate that such an event would cause the stayout commitment to be voidable.

[4] EXH 59 at 584 indicates that the transaction was announced in a public filing on or about September 27, 2023. The last Special Agenda deliberation in that 2023 rate case was on April 25, 2023. 2023 FCG Order at 5. There are 155 days between that date and the public announcement of the sale.

taken into consideration. TR 151. This is an appropriate position for FCG since Chesapeake did not ask for – nor were they required to receive – permission to merge with or buy FCG. TR 150. Any forgiveness or consideration that the Commission might give in this regard to give FCG a "mulligan" to try again with another surplus and RSAM-like mechanism would violate the 2023 FCG Order. It would also penalize FCG customers by requiring them to effectively pay for direct or indirect costs associated with a merger that they had no right to contest and potentially for an acquisition premium that has yet to be justified.[5] It is clear that the Commission was not informed of any merger activities in the last rate case. In fact, in that case, after OPC argued that the Company did not adequately demonstrate there will be no merger activities that will affect the appropriateness of the test year, FCG told the Commission that there is "no evidence of any merger or sale activity, costs, or savings included in FCG's 2023 Test Year." 2023 FCG Order at 7.

C. The Depreciation Filing

On February 24, 2025, FCG filed "Florida City Gas's Petition For Approval Of Depreciation Study and For Approval To Amortize Reserve Imbalance." ("Petition"). From the start it was obvious that the filing had as its central focus a resulting depreciation surplus. While the case that was filed in February 2025, claimed a depreciation reserve surplus of $27 million, the claimed amount at this point has now shriveled to $19.2 million. The original surplus remainder was the product of the requested, intentional creation of an imbalance (surplus) in the last FCG rate case. As noted, the circumstances of that 2023 FCG Order are pending a decision by the Florida Supreme Court.[6] The fact of the appeal alone casts a long shadow over that remainder surplus balance, as it is embedded in the pending appeal and the $27 million remainder surplus was specifically mentioned to the court in oral argument.[7] The Commission should avoid taking any action that even creates the appearance of disposing of a repackaged and/or re-labeled surplus from that 2023 decision.

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[5] See, e.g., *In re: Petition for approval of positive acquisition adjustment to reflect the acquisition of Indiantown Gas Company by Florida Public Utilities Company*. Order No. PSC-14-0015-PAA-GU, issued January 6, 2014, in Docket No. 20120311-GU. (Acquisition adjustment granted.)

[6] See *Citizens of Florida v. Florida Public Service Com.*, SC2023-0988 (Fla. argued Dec. 10, 2024).

[7] See OPC's Motion to Hold Proceedings in Abeyance, filed February 27, 2025, at 2,3 (paragraphs 9, 14). Document No. 01166-2025, filed in this Docket 20250035-GU; Citizens' Motion for Reconsideration, filed April 11, 2025 at 5 (footnote 15). Document No. 02777-2025 in this Docket.

FCG now claims that the surplus is $19.2 million. However, when FCG filed this case it was $27.3 million. Petition at 3. Early review by Commission Staff noted errors in the rushed filing, so FCG whittled its surplus-related ask down to $22 million. TR 309. More discovery and Staff review revealed other errors, and the putative surplus dropped to $19.2 million. TR 309. Professional Staff took the highly unusual step of filing testimony in this case. That testimony demonstrated that the actual reserve surplus number is less than $7 million, based on an assumption that the Company information is accurate. TR 334.

The facts are compelling that the depreciation submittal was rushed. As late as October 2024 (TR 70-71; EXH 67, Bates 16), FCG appeared to begin the preparation of a truncated "study" which lacked the life analysis required by Rule 25-7.045, Florida Administrative Code ("F.A.C.") ("Rule") when aged retirement data is available. TR 70-71, 389; Rule 25-7.045(5)(g), F.A.C. The most reasonable inference to draw was that the Company hurriedly developed an analysis.

It would defy logic to believe that the Company intended to end up receiving a surplus of $19.2 million, or even $6.9 million, but initially filed an inflated ask that coincidentally totaled $27 million. The errors brought to light by Staff and OPC are actually strong evidence that the goal ***was*** to take the product of a set of parameters twice removed[8] from FCG and duplicate that remainder surplus as close as possible. In light of the history of this surplus, there is strong circumstantial evidence that the (unstated) goal of the filing was to unlock for the shareholders the value of the ratepayer overpayments in the 2023 remainder surplus to shore up sagging earnings in the aftermath of the utility's acquisition and ongoing absorption into the Chesapeake system.

The 2023 FCG Order, under which FCG's four-year, 48-month stay out commitment was memorialized, was issued on June 9, 2023. Barely 21 months later, the same company has returned to the Commission seeking establishment of, and transfer to earnings of, an additional at least $19.2 million, reduced from the original amount requested that just happened to be nearly identical to the remaining $27.1 million in depreciation surplus set aside in 2023. Unanswered is whether FCG would have even bothered to make this filing had there been no leftover surplus. There is no

[8] The 2023 FCG parameters were "twice removed" in the sense that they applied to a completely different company (Peoples Gas System) and, further, they were a compromise based on a very specific negotiated settlement. Order No. 2020-0485-FOF-GU, issued December 10, 2020, at pp. 14-15, 24-25 (Paragraph 12(a) and (b)), 215-216; *In Re Petition for rate increase by Peoples Gas System.*

evidence that FCG would have even gone to the trouble or expense. This is a question the Commission should ask.

The evidence ***does*** show that FCG blew through the $25 million Reserve Amount in about 19 months. Under Chesapeake ownership, all but $2.00 of the $20.6 million of the Reserve Amount they received from FPL ownership was burned through in 13 months. FCG missed the stay out target by 29 months. It is interesting that under FPL's ownership, FCG actually used the RSAM in a "two-way" manner – twice putting money back into (crediting) the Reserve Amount. TR 156; EXH 55, MPN F1-249. Chesapeake plowed through the remaining balance and only debited the surplus. EXH 55, MPN F1-249. FCG offered a feeble, one sentence, 33 word "explanation"[9] as to why all but $2.00 of the approximately $6.9 million of the remaining Reserve Amount that was projected to exist at the end of 2024 had vanished in 9 months.

Apart from the troubling facts surrounding the FCG earnings situation and the parallel pursuit of a material amount of reserve surplus, there is the matter of the depreciation "study" that needs to be addressed. The OPC recommends that the Commission address it by sending the Company back to the drawing board with direction to file a complete and better supported study in conjunction with its next rate case.

D. The Requested Relief Would Harm Customers

Removing $19.2 million from the depreciation reserve in this case would create a $19.2 million lower depreciation reserve and increase the net rate base by $19.2 million in the coming rate case. TR 259-261. FCG says it expects "to file its next base rate case within the next year." TR 227; EXH 28 MPN E107. Such an increase in net rate base would mean that, if the Petition were granted to remove $19.2 million from the reserve in this case, subsequent to completion of the upcoming rate case, the ratepayers would pay a rate of return approximately $1.2 million per year higher than they would if the $19.2 million is not removed. TR 225, 260. This additional $1.2 million annual earnings benefit to shareholders would be in addition to the windfall shareholders would receive from taking $19.2 million out of the ratepayer-provided depreciation surplus. Such an outcome would be unjust and unreasonable. FCG witness Lee agreed that if $19.2 million is

[9] This sentence given in response to Staff Interrogatory 17, reads: "These included, but were not limited to greater than anticipated rates of inflations impacting many segments of our business, significant increases in property taxes, insurance expense increases, lower revenues and additional capital investments." EXH 27, MPN E46-E47.

taken out of the depreciation reserve, that would increase FCG's required net operating income by approximately $1.2 million per year, which would be an increase of approximately $1.7 million per year when the markup for income tax effects are included. TR 223-226.

FCG desires to establish or sustain a surplus through changing, without justification, logic, or evidence, certain parameters that have the effect of boosting the coveted surplus balance. While unjustified and illogical, the proposed adjustments to the parameters create, as OPC expert William Dunkel notes, an appearance of a "conflict of interest." Such an appearance exists because the Company has an obvious, undisguisable goal of justifying a surplus through the massaging of the parameters – especially the negative net salvage values – to generate shareholder earnings enhancement. Put another way, the filing has all the hallmarks of providing an opportunity for FCG to first create and then take customer-provided funds to the benefit of shareholders. This approach to depreciation is backwards and upside-down at the same time and further justifies the categorical rejection of the Company's Petition.

In any event, the earnings numbers which have been presented by FCG (TR 118, 125-126), including the assumptions and allocations which underly them, have not been subject to the thorough review by the Commission, Staff or OPC. FCG acknowledges that review would be needed. TR 228-229; EXH 28, MPN E4987. Even without such an in-depth review, the evidence still indicates that there is no basis to rely on the reported earnings in the quarterly Earnings Surveillance Reports ("ESR") filed by FCG. Despite introducing the notion of earnings into this docket, FCG did not explain, for example, whether the costs related to the merger and acquisition of FCG by Chesapeake were properly included in the ESRs (TR 207-212); whether the acquisition premium of $466 million was properly excluded from the reported earnings (TR 171-176); whether corporate allocations post-acquisition of FCG charged to income were properly accounted for (TR 191-192); or why it was reasonable for total operating expenses to have increased by approximately $16 million in the 18 months post-acquisition (TR 186-187). FCG also did not explain whether possibly deferred maintenance in the first year of ownership represented a recurring level of expense (TR 204-206) or a double collection of 2023 test year costs[10] for

[10] In various confidential sections of Exhibit 67, there are budget variances related to accounting treatments that involve the use of the term "capital." An example, among many, on Bates 11, on the fourth line down that starts with "OP 403." This type of activity is also discussed on Bates pages 8,13,16,19, 21. These transactions could have a similar "double collection" impact that undermines the validity of the ESR earnings values.

maintenance tasks that were approved for expenditure in 2023, included in customer rates but not spent, and now presented here as justification for recovery through a surplus amortization.

A sample of the evidence related to these items was presented by OPC in the hearing just to give the Commission a flavor of the unsuitability of the summary earnings estimates offered by the Company in a kind of back-door justification for giving customer funds to the shareholders. Obviously, the necessary detailed earnings review to determine FCG's true earnings posture can only be done in a rate case, where adequate discovery opportunities exist. This is yet another reason why the Commission must dismiss this Petition.

If FCG were to be allowed to divert the surplus funds to Chesapeake, the result would be that FCG customers' costs and bills would increase. TR 225-226, 261, 266. The evidence in this case is overwhelming that there is no basis, accounting standard, or public policy which favors revising depreciation parameters, rates, or costs at this time. FCG has failed to meet its burden to support its requested increase in customer costs. The OPC urges that any changes to these elements of revenue requirements coincide with the next rate case so that customers are treated fairly.

The OPC recommends this case be closed and the current depreciation rates remain in effect. Under the five-year filing requirement, a new depreciation study does not have to be filed until May 31, 2027. The OPC recommends that a new, correct depreciation study be filed as part of the next rate case, which is coming within a year, or by May 31, 2027, whichever is earlier. The OPC further recommends that the new depreciation study include the statistical analysis of the life data. Any reserve surplus identified in the new depreciation study should be used to benefit the ratepayers, since any depreciation reserve surplus is the result of over payment of depreciation expense by the ratepayers.

E. Depreciation Filing Flaws

In support of dismissal of the case, the OPC offered the testimony of expert witness William Dunkel, who testifies for commissions and their staffs about 50% of the time and consumers like the OPC the other 50%. TR 254. At a high level, Mr. Dunkel pointed out the fallacy of using this surplus – representing customer overpayments – to enrich the shareholders. He used a simple, but powerful illustration of this on the stand:

> In this case, let's take an example. Assume you had an account in a bank and the bank owner took $10,000 out of your account and put that money in his or her pocket. That would be improper, obviously, but it's very similar to what is being proposed in this case. In this case, the Company wants to take $19.2 million out of

> the depreciation reserve, which is one of the Company accounts, and put it -- and give it to themselves as earnings. That is totally improper.

TR 312.

More specifically, Mr. Dunkel pointed out serious flaws in the FCG submittal, including bias or what he refers to as a conflict of interest in the development of proposed net salvage values and other parameters, failure to provide the required statistical life analysis using admittedly available, up-to-date aged data, and failure to ensure that the depreciation filing data is consistent with audited data contained in the Annual Report filed with the Commission. These factors align with Staff's view that the Company filing contains errors in the development of the parameters that inflate what the Staff has identified as a relatively minimal surplus, assuming the Company data is even accurate. TR 335.

On a more fundamental basis, Mr. Dunkel demonstrated that the combination of the FCG proposal first attempting to bloat the surplus and then seeking to extract it for exclusive shareholder use, harms customers by putting upward pressure on depreciation rates, rate base, and expenses for years to come. TR 225-226, 262, 266. Mr. Dunkel also explained that the FCG submittal is not a complete study. As a result, the Commission has been provided incomplete and inadequate information as the submittal is inconsistent with the Rule. This is not surprising since the filing is two years premature. In just one example of this, FCG witness Lee conceded that there were problems in the exclusion of cost of removal amounts that should have been included in the analysis. TR 80-90. She acknowledged that more time in the form of a re-filed study would allow that error to be fixed. TR 90-91.

Additionally, the purported depreciation study is deeply flawed because it uses data that materially varies from the book amounts contained in the audited annual reports, it inexplicably excludes cost of removal amounts, it does not contain a statistical life analysis containing up-to-date aged retirement data, and it is not tied to a rate setting proceeding, given the proposed treatment of the reserve imbalance. The Company assertion that the filing needed to be submitted for reasons other than accessing the surplus did not hold water. FCG witness Lee acknowledged that with respect to the recent history of affiliated Chesapeake and Florida Public Utilities Company gas and electric companies, there were no instances of the Company filing an early depreciation study. TR 70-75. If anything, the Company asked for and received extensions or waivers to file later. TR 72. This pattern of conduct and history indicates that the correct filing of

a depreciation study generally is not a hurried undertaking, and it is highly unusual for Chesapeake to file early. This is a red flag when viewed in context of the errors, the omissions, and the aggressive assumptions that drive a surplus and the enormous pressure of a top heavy acquisition.

OPC expert witness Dunkel testified that, among other defects, the "study" submitted by FCG is incomplete and does not comport with the Rule. TR 266-273. This alone should be sufficient to require rejection of the filing as discussed below. Staff also raised a significant issue of deficiency with the filing. Their expert testified that the FCG filing lacks the required statistical analysis. It is reasonable to conclude that this impairs the accurate determination of the depreciation parameters that influence the existence of a reserve surplus.

The Company's 2025 depreciation filing is insufficient due to it being two years premature, the apparent Rule violations, and the admitted errors that have reduced the purported depreciation surplus by $8 million. Witness Kunkler's expert observations are consistent with witness Dunkel's testimony that the lack of such statistical life analysis and the reliance on data only through 2020 as contained in the prior study supports rejection of the current filing and resubmittal of a complete study containing the statistical analyses for life and salvage factors and the actual data after the year 2020. TR 279.

F. ***Inconsistencies Between Study Data and Audited Financials Undermine the Validity of The Filing***

The Commission's Rule 25-7.045, F.A.C., provides:

> (5) A depreciation study shall include:
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> ...
>
> (h) The mortality and salvage data used by the company in the depreciation rate design ***must agree with activity booked by the utility.*** Unusual transactions not included in life or salvage studies, e.g., sales or extraordinary retirements, must be specifically enumerated and explained.

(Emphasis added.)

With respect to the integrity of the data being studied, OPC expert witness Dunkel identified a major deficiency in the FCG filing. He demonstrated that the study data was vastly different in many areas from the activity actually booked by the utility as reflected in the audited Annual Reports filed with the Commission. TR 268-269. These "huge inconsistencies" as he described them, are reflected on the schedule at TR 270. The largest single variance in Account

3762 showed a depreciation "study" value of $546,527[11] as opposed to the audited booked amount of $5,565,780. The Company failed to reconcile this number.[12] Instead, the Company indicated that they did not receive the information from the prior owner. TR 464. The Rule does not contain an exemption from compliance for such a circumstance. There was no evidence that a rule waiver had been sought or granted for such a situation.

It is conceivable that the culprit behind these errors was the fact that the Company filed its proposed "study" more than two years early. TR 274. The rush to the clerk's office appears to be part of the reason it was incomplete. FCG asks the Commission to rely on expediency instead of the requirements of the Rule in support of its request. With regard to the lack of reconciliation to the Annual Report data, the Company claims that "supporting entries were not provided by FPL." However, that excuse does not hold water. The evidence in the case indicates that FPL is contractually obligated to provide the information that FCG says is missing. The Stock Purchase Agreement ("SPA") provides that FCG's current owners are entitled to full access to the books and records of FCG emanating from prior to the sale, as well as access to the relevant company employees related to an action, which is defined in the SPA as "including any state regulatory proceeding." EXH 59, MPN F1-592 (defining 'Action" in Section 1.1) and F1-632-633 (defining the scope of "Access to Information" in Section 5.2(b)). FCG provided no evidence that it sought to avail itself of this avenue.

G. Cost of Removal Information Is Missing From The Filing

On the stand, FCG witness Lee was confronted with the fact that the filing has erroneously excluded cost of removal ("COR") for 2024 for many accounts, including the largest account in her depreciation filing. TR 80-90. The witness agreed that she was aware that actual retirement work had been done in the year 2024 and costs were incurred, but for 2024 she submitted a filing that utilized zero for COR. TR 86-87. She testified that she "absolutely" agreed "that it is important that the depreciation professionals should combine reliance on current operational insight with relevant professional judgment in depreciation -- judgment in depreciation in developing

[11] Later revised to $386,460. TR 268.

[12] To this point and as further evidence that the there is a serious disconnect between the Annual Report data and the depreciation "study" data, Commission Rule 25-7.014(5), F.A.C., provides in relevant part that "(5) For each utility providing data to the Commission, all data shall be consistent with and reconcilable with the utility's Annual Report to the Commission." This bolsters the testimony of OPC witness Dunkel regarding the requirements of Rule 25-7.045(5)(h), F.A.C.

recommended future life and salvage expectations." She nevertheless conceded that using her operational insight and relevant professional judgement, she was aware that the COR amount was not zero, but she still used that number for the accounts because that is what the Company recorded. TR 85-87. Most significantly, FCG witness Lee agreed that if the Commission dismissed this case and required FCG to return with another depreciation filing in conjunction with the upcoming rate case, she would have the correct COR information to use for 2024. TR 90-91. This testimony is a strong indicator that the filing was rushed and is an express indication that the quality of the depreciation filing would benefit from more time. The OPC submits that the knowing exclusion of COR costs is improper as it could shift cost recovery off to future generations and artificially inflate the calculated surplus.

H. The FCG Filing Lacked A Statistical Life Analysis That Was Required By The Rule Under the Facts of This Case.

The Rule addresses the extent to which statistical life analysis data is required. In relevant part in subsection (5)(g) it provides that:

> (5) A depreciation study ***shall*** include:
>
> …
>
> (g) All calculations, analysis and numerical basic data used in the design of the depreciation rate for each category of depreciable plant. Numerical data shall include plant activity (gross additions, adjustments, retirements, and plant balance at end of year) as well as reserve activity (retirements, accruals for depreciation expense, salvage, cost of removal, adjustments, transfers and reclassifications and reserve balance at end of year) for each year of activity from the date of the last submitted study to the date of the present study. ***When available, retirement data shall be aged.***

(Emphasis added.). Notably, in her revised prefiled direct testimony, FCG witness Lee incorrectly substituted the word "should" for the express Rule term "shall." TR 40. Her decision to do so may support the Company's incorrect position that the statistical analysis was optional, but it is inconsistent with the mandatory nature of the requirement expressly contained in the Rule. FCG decided to not perform this analysis. TR 47, 101, 278. Both witness Dunkel and witness Kunkler took exception to the ommission of this analysis.

Specifically, witness Kunkler testified that in his opinion, "FCG's methodology for determining its depreciation parameters in this filing relied minimally on FCG's actual historical retirement/salvage activity and relied heavily on the judgement and expectations of Company

personnel and Ms. Lee." TR 328. He further testified that the Company should have provided a statistical analysis as part of its 2025 Depreciation Study. Mr. Kunkler then observed that "[i]n the time between depreciation studies, additional years of retirement data become available, which provides more data for statistical life analyses and, ultimately, a clearer picture of each account's actual depreciation activity. In my opinion, a statistical life analysis provides critical support for recommended depreciation parameters." TR 329. Mr. Kunkler had good reason to make this observation because on the stand, witness Lee admitted the missing "aged" data existed. TR 387-389.

Consistent with Mr. Kunkler's position, Witness Dunkel testified that a "major part of a comprehensive depreciation study is to analyze the actual experience data of that utility, including the new data from recent years." He noted that "when performing a new depreciation study several years after the prior study, you will have several years of new actual data which was not available at the time of the prior study. A major part of a new depreciation study is to do statistical analyses of the life and net salvage data, including the new data." TR 277. In support, he cites to the National Association of Regulatory Utility Commissioners' (NARUC) Staff Subcommittee on Depreciation's manual entitled "Public Utility Depreciation Practices," which FCG witness Lee co-authored (TR 69), for the following related to the missing analysis:

> Knowing what happened yesterday may help one to better understand what is happening today and what may happen tomorrow. This is also true with depreciation studies. Historical life analysis is the study of past occurrences that may be used to indicate the future survivor characteristics of property. Accumulation of suitable data is essential in an historical life analysis.

TR 277-278.

In addition to undermining the validity of the FCG filings, this analysis deficiency just demonstrates that the filing is not a new depreciation study. The statistical analysis used by FCG witness Lee are from the prior case and included actual data only through 2020, even though FCG had actual data available through 2024 at the time FCG performed the depreciation "study." TR 277. Mr. Dunkel refuted the Company's *post hoc* rationale for not using the post-2020 data because the 2001-2024 average retirement rate for each account has averaged less than one percent. TR 279. Mr. Dunkel pointed out, for example, that a low number of retirements over time indicates the facilities are having a long life. TR 280. FCG witness Lee's claimed that if retirement rates have "averaged less than one percent," it means that data is "meaningless." However, Mr. Dunkel

pointed out that this is not a rule accepted by NARUC's "Public Utility Depreciation Practices," which Ms. Lee co-authored. TR 282. This back and forth is largely beside the point though since the Rule requires the data. This one percent sideshow does not constitute an exception to the Rule. No waiver was sought. Mr. Kunkler testified that the Staff expected the information. This omission is further evidence that the filing was rushed and further reason to reject it.

I. FCG's Filing Is Loaded With Bias In Negative Net Salvage Estimates That Serve Only To Inflate The Surplus For Exclusive Benefit Of Shareholders

FCG aggressively increased net salvage assumptions resulting in large increases in a depreciation reserve imbalance. This occurs primarily in Account 3762, Mains - Steel and Account 3801, Service – Plastic. Both Staff witness Kunkler and OPC expert witness Dunkel are in accord that the proposals to increase net salvage in these accounts are unsupported. TR 325, 334; 293-300. Mr. Dunkel testified that the aggressive assumptions underlying just these two accounts results in $10 million of the revised $19.2 million surplus the Company is asking the Commission to approve. TR 291, 297. Mr. Dunkel further notes that there "is a major conflict of interest in the preparation of the FCG filing. Under FCG's proposal, the money that is identified as a 'surplus' in the depreciation reserve would be transferred to the owners. The amount of money which is claimed to be 'surplus' is determined by the 'parameters' selected. This creates a conflict of interest for the personnel selecting parameters to be proposed by FCG." TR 276. *See generally* Mr. Dunkel's testimony at TR 290 -298. OPC Witness Dunkel testified that this conflict of interest pervades the selection of all parameters proposed in the FCG filing. TR 299.

In addition, Witness Kunkler, who is silent regarding the conflict of interest observed by Mr. Dunkel, opined, referring to these same accounts (3762 and 3801), that "there are two accounts in which the Company proposes new parameters that are not consistent with the Company's historical retirement/salvage data, lack supporting documentation, exhibit an over-reliance on expectations, and result in significant impacts to the Company's calculated reserve surplus." TR 329-330. He identified these errors as influencing the inflation of the surplus by noting that the "parameters proposed for the two accounts referenced above lack support and result in an overstated reserve surplus. The Company calculates a total reserve surplus of approximately $19.2 million. My calculated reserve surplus is approximately $6.9 million, a difference of approximately $12.3 million." TR 334. Mr. Kunkler further testified with the significant qualification that his numbers were subject to the accuracy of the data provided by the Company. TR 335, 340-342.

J. The Depreciation Reserve Surplus, If Any, Should Be Resolved Using Remaining Life Technique

The evidence in the case does not support the validation of a surplus given the deficiencies and errors in the filing. Any depreciation reserve imbalance identified in the new depreciation study to be filed in the coming rate case should be addressed in the remaining life calculations. TR 301. It is notable that Mr. Kunkler takes a neutral position in his testimony on whether the Commission should use the remaining life technique or the Company-proposed amortization. TR 335-336. However, as pointed out by Mr. Dunkel, the Staff Report, filed on August 12, 2025, states that "[i]t is staff's opinion that the remaining life depreciation technique is the preferred option to correct the reserve imbalance in this instance." TR 307.

K. The Earnings Information Submitted By FCG Does Not Support The Relief Requested

FCG regulatory witness Everngam testified that FCG is experiencing and projecting earnings below the midpoint of the authorized return on equity ("ROE") and below the bottom of the authorized ROE range. TR 117-118, 125-126. Because of this, he claimed that "[c]ustomers are currently receiving a significant benefit by underpaying for service, of which depreciation is just one of the components, in the amount of approximately $10.81 million annually (at the Company's mid-point target)." TR 125-126. Elsewhere he admitted that "as long as the company is earning within the 200-basis-point range established by the Commission, that they are recovering their costs." TR 143. This contradiction undermines FCG's underearnings claim even if the Commission takes the earnings surveillance report at face value with zero investigation. As acknowledged by FCG's Assistant Vice President of Regulatory Affairs, no earnings inquiry has been undertaken by the Staff of the Commission in this case or since the last rate case while acknowledging that one might be appropriate. TR 152,177, 206-207; EXH 43, MPN E5044-5045.

Prior to and after Chesapeake's acquisition, FCG was reporting earnings between 9.5% and 10% ROE for the year 2023. EXH 27, MPN E46-E49. After just 19 months of Chesapeake control, total operating expenses increased approximately $16 million from the average of the five-year period preceding the merger through the June 2025 ESR. TR 185-187; EXH 63, MPN F1-944. This fact creates the appearance that Chesapeake may have incurred costs to consummate the merger and integrate FCG into the organization and is now aggressively flowing them through the ESR. The accounting documents received into evidence showed integration, acquisition, and acquisition adjustment related costs on FCG's variance reports. TR 207-212; EXH 67, Bates

2,4,6,8,11,13,14,16,19, ("Payroll" line), Bates 6, ("Sales, Advertising & Communications" line), Bates 14 ("Outside Services" line, and "BU Depr, Amort & ARC" line ("Acquisition Adjustment" $541k)). Evidence was presented that revealed a $347,000 increase in corporate costs above what was budgeted in 2024. TR 191-192; EXH 64, MPN F1-946.

FCG witness Everngam testified that "many of the acquisition activities occur at a corporate level, not on the regulated utility level," with the apparent implication that they would be recorded on the Chesapeake books. TR 197. He was silent about whether some of these costs could have been re-visited upon FCG's retail income statement and ESR via the Total Shared Services, Total Corporate Costs, and Total Corporate Overhead costs that were at least $347,000 greater than originally budgeted, in 2024. TR 191; EXH 64, MPN F1-946. Mr. Everngam could not testify whether merger costs were included in these corporate costs. TR 192. The extent and purpose of these costs could not be validated by witness Everngam as to whether they were acquisition related TR 191-192. He acknowledged that they were not reviewed in this case. TR 196-197. He did agree that, generally, such costs would have been recorded above the line. TR 194-195. However, it is not clear that customers should bear these acquisition-related costs.[13] FCG failed to meet its burden of proof in this regard. Based on this record, the Commission should be hesitant to allow these costs to be used to demonstrate an earnings deficiency. Further, it would be improper to allow any such costs that might be included in 2025 or 2026 results to be offset with additional depreciation reserve surplus overpayments when it already appears that the first $25 million of surplus overpayments may have been accelerated to try to offset these increased costs – some of which may have been occasioned by the Chesapeake acquisition of FCG.

Curiously, the Petition that initiated this case on February 24, 2025, stated at page 4 (Paragraph 7) that it was working to "identify additional synergies" resulting from the acquisition. While this would suggest that some synergies have already been identified, the numbers suggest otherwise. Mr. Everngam seemed to dispute the notion that achieving synergies were a "primary driver" of paying over $460 million above net book value for the Company. He also seemed to disagree that such a transaction would need to achieve a lower overall cost for its customers. TR 197-198. If that were to be the case, it would seem inconceivable that the Commission would allow

[13] *In re: Application for rate increase in Charlotte County by Utilities, Inc. of Sandalhaven*. Order No. PSC-03-0602-PAA-SU, issued May 13, 2003, in Docket No. 20020049-SU. (Acquisition expenses disallowed as being attributable to shareholders.)

overpaid customer funds to flow to shareholders to offset any of the impact of such an enormous acquisition premium. It certainly calls into question whether the increase in expenses that are driving down the achieved ROE and absorbing RSAM credits can form the basis for flowing the customer overpayments to the shareholders. The earnings information presented by OPC at hearing creates material doubt as to the prudence and recoverability of costs that FCG claims are negatively impacting their earnings. The accelerated spending of the Reserve Amount in 2024 is further strong evidence that FCG has not explained the reason why they failed to honor their commitment it made to make the $25 million last for four years. The elephant in the room, of course, is the payment of $923 million for a company with a net book value of half that amount. TR 159-162.

Given the breach of faith from FCG's 2022 rate case commitment that the Commission accepted, and the deficiencies in the depreciation filing, the agency cannot and should not rely on the company's claims of self-inflicted poverty to first approve and then authorize amortization of a poorly supported surplus. As discussed above, FCG failed to demonstrate a need for earnings relief.

In short, the evidence shows that the Commission does not have a basis for granting relief to FCG. They should be sent back to the drawing board and told to come back when they have a substantiated, completed study and, for earnings review purposes, have filed the rate case they say they will file within a year with or without the surplus amortization they seek. More to the point, the determination of depreciation parameters and costs should be aligned with the setting of rates for the benefit of the customers who bear the cost of depreciation. TR 302-305.

STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: Should currently prescribed depreciation rates for Florida City Gas be revised?

OPC POSITION: *No. FCG has not provided justification to support a change in depreciation parameters, rates, or costs. The filing is designed to boost earnings and is premature and inconsistent with the principles underlying depreciation and insufficient to change depreciation parameters, rates, and costs. It would improperly transfer customer-provided depreciation expense-related revenue overcollections to shareholders. Rule 25-7.045, F.A.C., forbids the Commission from taking action to intentionally create a reserve imbalance for purposes of adjusting achieved earnings.*

ARGUMENT:

The FCG request is without merit. This issue is the *de facto* issue for the consideration of the four-year stayout prohibition, lack of any earnings needs, and the sufficiency of the depreciation filing. For all the reasons set out in subsections A-K above, the Petition should be denied. The evidence is compelling that the motivation for the filing was for the new Chesapeake owners to tap into what they thought was a pot of customer-provided funds ripe for the taking. What FCG submitted does not provide a basis for changing depreciation rates between rate cases. The depreciation filing was assembled piecemeal without adequate support and is rife with errors. The filing violates the four-year stay out commitment made by FCG and accepted by the Commission in 2023. Any earnings deficiency basis for the filing is specious and unreliable. In short, the Petition should be denied.

To the extent the Commission nevertheless decides to grant FCG affirmative relief at this time and to revise currently prescribed depreciation rates for FCG and ignore the errors and deficiencies in the data including reconciliation of the filing data to Annual Report numbers and absence of certain cost of removal data, the Commission should adopt the recommendation of Staff witness Kunkler and address any resulting surplus using remaining life technique and use the surplus to the benefit of the ratepayers, since any surplus is the result of over collecting depreciation from the ratepayers.

ISSUE 2: Based on FCG's 2025 Depreciation Study, what are the appropriate depreciation parameters (e.g., service lives, remaining life, net salvage percentage, and reserve percentage) and resulting depreciation rates for each depreciable plant account?

OPC POSITION: *FCG did not file the complete study required by rule, impairing the Commission's ability to perform statistical analyses of life and net salvage data, including any post-2020 data. Biased selection of parameters including negative net salvage values created a surplus to boost shareholder earnings. Commission's rules forbid intentionally creating reserve imbalances for adjusting earnings. Submission of a full study, including statistical analyses for life and salvage factors and include post-2000 actual data should be required.*

ARGUMENT:

The FCG request is without merit. This issue is the *de facto* issue for the consideration of the four-year stay out prohibition, lack of any earnings needs, and the sufficiency of the depreciation filing. For all the reasons set out in subsections E-I above, the Petition should be denied. The evidence is compelling that the motivation for the filing was for the new Chesapeake owners to tap into what they thought was a pot of customer-provided funds ripe for the taking. What FCG submitted does not provide a basis for changing depreciation rates between rate cases. The depreciation filing was assembled piecemeal without adequate support and is rife with errors. The filing violates the four-year stay out commitment made by FCG and accepted by the Commission in 2023. Any earnings deficiency basis for the filing is specious and unreliable. In short, the Petition should be denied.

To the extent the Commission nevertheless decides to grant FCG affirmative relief at this time and to revise currently prescribed depreciation rates for FCG and ignore the errors and deficiencies in the data including reconciliation of the filing data to Annual Report numbers and absence of certain cost of removal data, the Commission should adopt the recommendation of Staff witness Kunkler and address any resulting surplus using remaining life technique and use the surplus to the benefit of the ratepayers, since any surplus is the result of over collecting depreciation from the ratepayers.

ISSUE 3: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FCG's data, and the comparison of the theoretical reserves to the book reserves, what, if any, are the resulting imbalances?

OPC POSITION: *FCG didn't produce a complete study as required by Rule 25-7.045, F.A.C., and information is insufficient to determine correct parameters. No basis exists to determine any resulting imbalance. Commission rules forbid intentionally creating reserve imbalances for adjusting earnings. The Commission should direct that a new, correct, depreciation study be filed as part of the coming rate case, when FCG will have had more time to assemble more accurate data and perform the required statistical analyses. *

ARGUMENT:

The FCG request is without merit. This issue is the *de facto* issue for the consideration of the four-year stay out prohibition, lack of any earnings needs, and the sufficiency of the depreciation filing. For all the reasons set out in subsections E-J above, the Petition should be denied. The evidence is compelling that the motivation for the filing was for the new Chesapeake owners to tap into what they thought was a pot of customer-provided funds ripe for the taking. What FCG submitted does not provide a basis for changing depreciation rates between rate cases. The depreciation filing was assembled piecemeal without adequate support and is rife with errors. The filing violates the four-year stay out commitment made by FCG and accepted by the Commission in 2023. Any earnings deficiency basis for the filing is specious and unreliable. In short, the Petition should be denied.

To the extent the Commission nevertheless decides to grant FCG affirmative relief at this time and to revise currently prescribed depreciation rates for FCG and ignore the errors and deficiencies in the data including reconciliation of the filing data to Annual Report numbers and absence of certain cost of removal data, the Commission should adopt the recommendation of Staff witness Kunkler and address any resulting surplus using remaining life technique and use the surplus to the benefit of the ratepayers, since any surplus is the result of over collecting depreciation from the ratepayers.

ISSUE 4: What, if any, corrective depreciation reserve measures should be taken with respect to any imbalances identified in Issue 3?

OPC POSITION: *FCG failed to produce the required complete study as required by Commission rule. There is insufficient information provided to determine the correct parameters. No basis exists to determine any resulting imbalance. If, over the OPC objection, any imbalance is identified in this case, it should be addressed in the remaining life calculations using remaining life technique and any reserve transfers should only be undertaken in a manner that would not artificially increase depreciation costs.*

ARGUMENT:

The FCG request is without merit. This issue is the *de facto* issue for the consideration of the four-year stay out prohibition, lack of any earnings needs, and the sufficiency of the depreciation filing. For all the reasons set out in subsection J above, the Petition should be denied. The evidence is compelling that the motivation for the filing was for the new Chesapeake owners to tap into what they thought was a pot of customer-provided funds ripe for the taking. What FCG submitted does not provide a basis for changing depreciation rates between rate cases. The depreciation filing was assembled piecemeal without adequate support and is rife with errors. The filing violates the four-year stay out commitment made by FCG and accepted by the Commission in 2023. Any earnings deficiency basis for the filing is specious and unreliable. In short, the Petition should be denied.

To the extent the Commission nevertheless decides to grant FCG affirmative relief at this time and to revise currently prescribed depreciation rates for FCG and ignore the errors and deficiencies in the data including reconciliation of the filing data to Annual Report numbers and absence of certain cost of removal data, the Commission should adopt the recommendation of Staff witness Kunkler and address any resulting surplus using remaining life technique and use the surplus to the benefit of the ratepayers, since any surplus is the result of over collecting depreciation from the ratepayers.

ISSUE 5: What should be the implementation date for revised depreciation rates and amortization schedules?

OPC POSITION: *There should be no new implementation of revised depreciation rates and amortization schedules. Instead of attempting to implement FCG's attempted "study," the Commission should direct that a new, correct, depreciation study be filed as part of the coming rate case. By then FCG will have had more time to assemble more accurate data and perform the statistical analyses. In any event, a new depreciation study does not have to be filed until May 31, 2027.*

ARGUMENT:

There should be no new implementation of revised depreciation rates and amortization schedules. Instead of attempting to implement FCG's attempted "study," the Commission should direct that a new, correct depreciation study be filed as part of the coming rate case. By then FCG will have had more time to assemble more accurate data and perform the statistical analyses. In any event, a new depreciation study does not have to be filed until May 31, 2027.

To the extent the Commission nevertheless decides to grant FCG affirmative relief at this time and to revise currently prescribed depreciation rates for FCG and ignore the errors and deficiencies in the data including reconciliation of the filing data to Annual Report numbers and absence of certain cost of removal data, the Commission should adopt the recommendation of Staff witness Kunkler and address any resulting surplus using remaining life technique and use the surplus to the benefit of the ratepayers, since any surplus is the result of over collecting depreciation from the ratepayers. The implementation date should be no sooner than the effective date of new end user rates resulting from the Company's next rate case.

ISSUE 6: Should the current amortization of investment tax credits (ITCs) and flow back of excess deferred income taxes (EDITS) be revised to reflect the approved depreciation rates and amortization schedules?

OPC POSITION: *Since FCG did not file a complete depreciation study as required by Rule 25-7.045, F.A.C., there is no lawful basis to change depreciation rates and amortization schedules and thus this issue is moot.*

ARGUMENT:

To the extent the Commission nevertheless decides to grant FCG affirmative relief at this time and to revise currently prescribed depreciation rates for Florida City Gas and ignore the errors and deficiencies in the data including reconciliation of the filing data to Annual Report numbers and absence of certain cost of removal data, the Commission should follow Commission practice and policy as it applies to FCG.

ISSUE 7: Should this docket be closed?

OPC POSITION: *Yes.*

ARGUMENT:

Closing the docket along with the dismissal of the petition is the appropriate resolution of the case. Witness Dunkel said it best when he testified "[f]or the reasons discussed in this testimony, I recommend this case be closed and the current depreciation rates remain in effect. A new depreciation study is not due until May 31, 2027, which will be five years after the filing of the last FCG depreciation study." TR 305. This case was prematurely filed, and the evidence shows that the Commission does not have a basis for granting relief to FCG. They should be sent back to the drawing board and told to come back when they have a substantiated, completed study and, for earnings review purposes, have filed the rate case they say they will file with or without the surplus amortization they seek.

Dated this 7th day of January, 2026.

Respectfully submitted,

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CERTIFICATE OF SERVICE
DOCKET NO. 20250035-GU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail on this 7th day of January, 2026, to the following:

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