BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company ("Florida transco"), and their effect on FPL's retail rates.	DOCKET NO. 001148-EI ORDER NO. PSC-01-1346-PCO-EI ISSUED: June 19, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER REQUIRING THE FILING OF MINIMUM FILING REQUIREMENTS

BY THE COMMISSION:

BACKGROUND

This docket was opened on August 15, 2000, to review Florida Power & Light Company's (FPL or the company) proposed merger with Entergy Corporation (Entergy), the formation of a regional transmission organization (RTO), and their effects on FPL's rates and earnings. On April 2, 2001, FPL Group, Inc. announced that the agreement to merge with Entergy had been terminated. The proposed transco, GridFlorida, has been approved by the Federal Energy Regulatory Commission (FERC) and is scheduled to become operational by the end of the year.

At the current time, FPL is operating under a three year revenue sharing plan that was part of a stipulation with the Office of Public Counsel, the Florida Industrial Power Users Group, and

the Coalition for Equitable Rates. The stipulation was approved in Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI. In addition to setting a revenue cap, the stipulation provided for a $350 million annual rate reduction, a reduction in the authorized midpoint for return on equity (ROE) from 12% to 11%, the discretionary amortization of up to $100 million annually to reduce nuclear and/or fossil production plant and various other items. As a result of the revenue cap, FPL refunded $22.8 million during 2000 and expects to refund in excess of $87.8 million, plus interest, during June 2001. The revenue sharing plan ends on April 14, 2002.

Several events have occurred recently that impact the electric industry in Florida. In July, 2000, Governor Bush created the Energy 2020 Study Commission (Energy Commission), which has been charged with proposing an energy plan and strategy for Florida over the next 20 years. The Energy Commission filed an Interim Report to the Legislature and the Governor in December, 2000, which included proposed legislation designed to move Florida to a deregulated wholesale energy market. That proposed legislation called for a base rate cap on retail rates during a transition period. During the recent legislative session, there were concerns expressed about the earnings level of the investor-owned companies, the value of the generation and transmission assets, and whether current base rates accurately reflect cost.

In addition, the utility is involved in the establishment of GridFlorida, a regional transmission organization (RTO) formed in response to an order issued by the Federal Energy Regulatory Commission (FERC). This RTO will have a significant impact on the investment and expenses of the utility in the future. Retail rates, which currently include a cost component to recover transmission facility costs, must be reconciled with the removal of the transmission costs and the imposition of new wholesale transmission rates charged by GridFlorida.

In light of all of these events, we believe it is necessary to initiate a base rate proceeding to address the level of FPL's earnings and to assure appropriate retail rates are implemented on a going forward basis so that appropriate benefits of the formation

of the RTO and any future restructuring of the electric market are captured for the retail ratepayer. The following discussion details our specific concerns with regard to the level of earnings of FPL.

DISCUSSION

In the Stipulation, it was explicitly recognized that, during the term of the Stipulation, FPL's "...achieved return on equity may, from time to time, be outside the authorized range...." Every month since the inception of the revenue sharing plan in April 1999, however, FPL's achieved "FPSC Adjusted" ROE has exceeded the maximum of its authorized ROE range. Over this 23 month period, FPL's achieved ROE has exceeded the 12% ROE ceiling by a range of 4 to 157 basis points through February 2001. On average during this period, FPL's reported ROE has been 49 basis points above the top of the authorized ROE range. This is a conservative figure because it does not reflect the possibility of certain adjustments related to items such as the Florida Municipal Power Agency (FMPA) settlement and executive compensation.

FPL has maintained this high level of earnings despite the imposition of the revenue cap and its related refunds, the $350 million annual base rate reduction, the $100 million discretionary production plant amortization write-off, the inclusion of a $69 million settlement with FMPA in November 1999 and the December 2000 recording of one-time costs, including substantial executive compensation expenses, of $62 million related to the failed merger with Entergy. We are concerned that, once the revenue sharing plan ends on April 14, 2002, FPL's earnings will continue to exceed its authorized maximum ROE ceiling of 12% with no protection for the ratepayers from these high earnings.

As part of FPL's current revenue sharing plan, the annual nuclear decommissioning and fossil dismantlement accruals have been capped at the 1995 prescribed levels, and FPL's depreciation rates were capped at their prescribed 1999 levels. FPL filed an updated nuclear decommissioning study at the end of 2000 which is under review. The currently approved nuclear decommissioning annual

accruals are $84,024,335 on a retail basis. The annual accruals resulting from FPL's updated decommissioning studies are $81,549,724 on a retail basis. This represents a $2,474,611 decrease in the annual accrual amount. FPL is proposing to maintain the currently prescribed annual accrual level rather than decreasing the level to the amount supported by its decommissioning studies. Under the Stipulation, the decommissioning accrual cannot be increased. If the accrual is decreased, it would increase FPL's earnings for 2001 and the remaining period of the stipulation.

Inextricably related to the assessment of earnings is the amount of common equity capital on which the ROE is measured. FPL's equity ratio, while addressed in the Stipulation, remains an ongoing concern. In Section 4 of the Stipulation, FPL agreed to cap its equity ratio at 55.83% on an adjusted basis for surveillance purposes. Although the amount is small, FPL's adjusted equity ratio has consistently exceeded this cap since March 2000. FPL's actual equity ratio, the level upon which earnings are measured, of approximately 65% continues to be well above the average equity ratio for AA-rated electric utilities. A rate proceeding will afford an opportunity to determine an appropriate equity ratio, for ratemaking purposes, after the expiration of the revenue sharing plan.

In addition to the reasons for an earnings investigation outlined above, the information contained in the rate case minimum filing requirements (MFRs) is necessary to ensure proper rate-making and cost allocations among rate classes to reflect changes that have occurred since the company's last rate case. FPL's most recent fully allocated cost of service study was filed in 1981 for a projected 1983 test year. Since that time, significant changes have taken place in the company's operations, and cost shifting among rate classes has occurred. Considering the possibility of wholesale and/or retail electric market restructuring in Florida, the availability of current cost and allocation information will be beneficial to decision makers.

As mentioned previously, the utility is involved in the establishment of GridFlorida RTO along with other electric

utilities in peninsular Florida. The planned implementation of GridFlorida is December, 2001 and the rates of the RTO are due to be filed with FERC in October, 2001. On May 11, 2001, prior to this decision, FPL, Florida Power Corporation, and Tampa Electric Company filed a Joint Motion to Establish a Generic Docket to consider the issues related to the formation of GridFlorida on an expedited basis. This Joint Motion was addressed at the May 29, 2001, agenda conference, and a separate order reflecting that decision will be issued in Dockets Nos. 001148-EI, 000824-EI and 010577-EI.

DECISION

A rate proceeding with MFRs, including a fully allocated cost study, will provide assurances that FPL's rates, on a going-forward basis, are fair, just, and reasonable. For all of the reasons stated above, we find that FPL shall be required to file MFRs by August 15, 2001 (approximately 90 days from the date of our vote on this matter). This filing will begin an eight month time period for establishing new base rates to be effective by April 15, 2002, the expiration date of the existing revenue sharing plan. We further find that a projected calendar year 2002 test year is a reasonable basis for determining future rates.

In requiring FPL to file MFRs, we are mindful that it has been in excess of 17 years since full MFRs were filed, and that the effort to make such a filing is significant. To that end, we direct our staff to meet with the utility, the other parties, and other interested persons as soon as possible. The participants are directed to identify specific issues, discuss the possibility of eliminating certain MFRs that are not necessary for the efficient processing of this case, and to discuss the logistical challenges to the utility in meeting the August 15, 2001, filing date. We recognize that the discussions undertaken pursuant to the direction of this order could result in the need for further action by the Prehearing Officer and/or the Commission. Our intent is to be flexible, while still requiring the filing of sufficient information on a timely basis.

Our over-arching concern is that the public interest be protected. It is our responsibility to ensure that the company's

retail rates are at an appropriate level. Moreover, it is our belief that information in the MFRs will assist this Commission in addressing questions from the Energy 2020 Study Commission and the Florida Legislature regarding the earnings level of FPL, appropriate base rates, and the level of potential stranded cost/investment associated with various plans for restructuring of the electric industry.

We want to be clear that this decision to initiate a rate proceeding does not foreclose the ability of the company and parties to reach a resolution of some or all of the issues involved in an earnings review. In fact, it is our belief that the information contained in the MFRs can empower parties and the Commission to reach a settlement that everyone can agree is in the public interest. However, we need to be ready to move forward to discharge our obligations in the event there is no informal resolution of the issues. The information contained in the MFRs will allow us to do that.

Although we are not a party bound by its terms, we did approve the Stipulation in Order No. PSC-99-0519-AS-EI. One provision of the stipulation provides that the revenue sharing plan is to be the parties' "exclusive mechanism" to address any excessive earnings that might occur during the term of the stipulation. This provision provides some measure of protection for the ratepayers. For this reason, we find that no money shall be placed subject to refund at this time.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company shall file Minimum Filing Requirements by August 15, 2001, based on a projected calendar year 2002 test year. It is further

ORDERED that no money shall be placed subject to refund at this time. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 19th day of June, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, 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.