

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of Florida Power & Light Company for Approval of "Tax Savings" Refund for 1988:)	DOCKET NO. 890319-EI
)	ORDER NO. 22891
)	ISSUED: 5/7/90
)	

Pursuant to Notice, a Prehearing Conference was held on April 19, 1990, in Tallahassee, before Commissioner Betty Easley, Prehearing Officer.

APPEARANCES:

Matthew M. Childs, Esquire, and Charles Guyton, Esquire, Steel Hector & Davis, 215 South Monroe, Suite 601, Tallahassee, Florida 32301-1804
On behalf of Florida Power & Light Company

Joseph A. McGlothlin, Esquire, and Vicki Gordon Kaufman, Esquire, Lawson, McWhirter, Grandoff & Reeves, 522 East Park Avenue, Suite 200, Tallahassee, Florida 32301
On behalf of the Florida Industrial Power Users Group

Stephen C. Burgess, Esquire, Office of the Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 801, Tallahassee, Florida, 32399-1400
On behalf of the Citizens of the State of Florida

Marsha E. Rule, Esquire, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida, 32399-0863
On behalf of the Commission Staff

Prentice P. Pruitt, Esquire, Office of the General Counsel, Florida Public Service Commission, Tallahassee, Florida, 32399-0861
Counsel to the Commissioners

DOCUMENT NUMBER-DATE

03910 MAY -7 1990

FPSC-RECORDS/REPORTING

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Background

On March 1, 1989, pursuant to Rule 25-14.003, Florida Administrative Code, Florida Power & Light Company (FPL) filed its Petition for approval of a 1988 tax savings refund of \$38,221,633. The Office of Public Counsel (OPC) intervened in this docket, as did the Florida Industrial Power Users Group (FIPUG).

On April 28, 1989, the Commission issued Order No. 21143, which approved the utility's proposed refund, subject to further proceedings and true-up herein. The utility was also directed to refund additional interest on its 1987 tax savings refund, pursuant to Order No. 20659, issued in Docket No. 880355-EI.

On June 7, 1989, OPC and FIPUG filed a Joint Motion to Designate Issue, in which the parties requested the Commission to establish as an issue in this docket the appropriateness of the level of the utility's operations and maintenance (O&M) expense incorporated in its 1988 tax savings calculation; to inform FPL that it would have the burden of establishing that amounts exceeding the application of the O&M benchmark were necessary, reasonable, and prudent expenditures; and to establish appropriate time frames for discovery and submission of evidence herein. After oral argument, the motion was denied by the prehearing officer as being premature.

On August 18, 1989, FPL filed a request for clarification and motion for extension of time, and alternatively objected to a Staff interrogatory regarding justification of O&M expense benchmark variances. In Order No. 21865, FPL was given additional time in which to complete its interrogatory response, but the Commission stated that "it is not the Commission's policy to instruct utilities on how to justify their O&M benchmark variances" and that "it remains the utility's responsibility to decide what level of justification is needed to explain benchmark variances."

On December 7, 1989, Staff issued a recommendation regarding disposition of FPL's petition. Thereafter, on December 19, 1990, the Commission declined to vote on the substance of the recommendation due to the number and

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complexity of the issues. Instead, the Commission decided to proceed to hearing on the merits of the tax savings refund petition. The Commission also voted to hold a hearing to determine the appropriate return on equity for FPL and to require FPL to permanently reduce its rates and charges by \$38,460,672.

Proposed Agency Action Order No. 22334 was issued on December 22, 1989, in which the Commission instructed FPL to permanently reduce its rates and charges by \$38,460,672, consisting of the previously-ordered refund per FPL's 1988 tax savings report, increased by certain expense disallowances agreed to by the utility. The order became final on January 6, 1990.

After a hearing on January 9, 1990, the Commission issued Order No. 22490, which found the utility's appropriate return on equity to be 12.3% to 13.3%, with a midpoint of 12.8%.

Later, on January 29, 1990, FPL filed its Motion for Expedited Treatment and Hearing, in which it alleged that the requirements of Order No. 22433, an Order on Prehearing Procedure issued in this docket, violated the utility's right to procedural due process, incorrectly placed the burden of proof on FPL, were inconsistent with previous Commission procedure, and frustrated the Commission's effort to consider the case in an orderly and efficient manner. The utility argued that it did not have the burden of proof in this docket and that Staff and Intervenors should be required to file testimony regarding their proposed adjustments, after which the utility would file testimony. The parties resolved the motion by agreeing that FPL, OPC and FIPUG would file testimony on the same date, to be followed by any Staff testimony. The parties also agreed to address the burden of proof argument as a specific legal issue in the docket, with the understanding that the order of testimony was not intended to imply which party would have the burden of proof.

Use of Prefiled Testimony

All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and exhibits, unless there is a sustainable objection. All

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testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand.

Use of Depositions and Interrogatories

If any party seeks to introduce an interrogatory or a deposition, or a portion thereof, the request will be subject to proper objections and the appropriate evidentiary rules will govern. The parties will be free to utilize any exhibits requested at the time of the depositions, subject to the same conditions.

Testimony and Exhibits at Hearing

a. At the hearing each party must supply the court reporter with a "record copy" of each item of testimony and each exhibit which will be entered into the record. The court reporter will no longer be responsible for locating, collating, or correcting testimony or exhibits. It is not necessary to provide other parties with copies at hearing if the record copy merely consolidates testimony or exhibits. However, if the record copy corrects or revises previously filed testimony or exhibits, a copy must also be supplied to all other parties. The witness is still required to testify at hearing to changes or revisions.

b. The record copy of testimony will consist of the final, consolidated version of the witness' testimony, complete with all corrections. The title page of the testimony must clearly identify the witness, sponsoring party and docket, and must further identify each item of prefiled testimony which it replaces, consolidates, or corrects. Revised or corrected pages in the record copy must be identified as revised or corrected.

c. If a witness has filed more than one item of testimony (such as two items of direct testimony, or an initial item of direct testimony with later, supplemental testimony) the record copy must consolidate the items. Only one consolidated, final version of direct testimony and one consolidated, final version of rebuttal testimony

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may be filed for any witness. Subrebuttal, if used, may be filed separately under the same conditions.

d. The record copy of testimony must be stapled or otherwise securely fastened in the upper left corner. It may not be bound.

e. The record copy of exhibits which accompany the record copy of testimony should not be stapled to the testimony. The record copy of each exhibit should be separately stapled. Exhibits accompanying the record copy of testimony should be clipped to the testimony with a binder clip, or bundled with a rubber band.

f. Parties are encouraged to supply the court reporter, at hearing, with a supplemental exhibit list of all proposed exhibits which were not included in the prehearing order. The list should be similar in format to the exhibit list contained in this order.

Order of Witnesses

The witness schedule is set forth below in order of appearance by the witness' name, subject matter, and the issues which will be covered by his or her testimony.

(Direct)

	<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
1.	W.H. Brunetti (FPL)	Overview of direct case, management systems, QIP, budget process, cost management system, O&M benchmark review, flaws in benchmark application, implementation of QIP process, Deming Prize.	10, 12, 13, 14 15, 19, 53
2.	K.M. Davis (FPL)	Calculation of refund and interest, amount refunded and additional refund for agreed adjustments; policy & tax savings calculations	3, 4, 16, 17, 23, 24, 49, 53, 55, 56, 57

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- re: accounting or ratemaking of certain issues.
3. J.S. Woodall (FPL) Administrative and General function, cost management system, issues relating to costs in A&G function, application of O&M benchmark, & specific proposed cost disallowances. 7, 8, 17, 18, 28, 49, 51, 52, 58
 4. J.K. Hays (FPL) Nuclear production function, summarize budget and budget variance process, issues identified by other parties. 4, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45
 5. J.T. Petillo (FPL) O&M expenses in Customer Service, Sales, Customer Accounts, Distribution & Transmission functions. Organization & management systems, justification of expenses in challenged functions. 4, 5, 16, 47, 48, 49, 50, 51, 54
 6. J.W. Dickey (FPL) Non-fuel O&M expenses in Steam Production, Other Production & Other Power Supply functions. Power Resources Department's activities & management systems for budgeting & cost control, specific issues raised by parties. 9, 20, 21, 22, 23, 24, 25, 26, 27, 28, 46
 7. L. Kollen (FIPUG) Policy issues, review and analysis of FPL 1988 O&M expense, lack of justification for excessive O&M expense, recommended adjustments and disallowances, recommended total refund, need for management audit. 3, 6-49, 52, 55, 56, 58

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	<u>Witness</u>	<u>Subject Matter</u>	<u>Issues</u>
8.	H. Larkin (OPC)	Adjustments to tax savings calculation.	4-21, 24, 30-38, 40 42, 43, 49 55, 56
<u>(Rebuttal)</u>			
9.	L.A. Kollen	Rebut assertion that FPL's management system keeps O&M expenses under control and no management audit needed; rebut FPL's attack on O&M benchmark, equivalent forced outage rate, Turkey Point analysis; correct errors in representations of FIPUG's direct testimony.	16, 20, 21, 39 58
10.	J.W. Dickey (FPL)	Rebut proposed disallowance by FIPUG to offset Cutler Units No. 5 & 6 reactivation expenses with normal operating expenses.	21
11.	J.K. Hays (FPL)	Rebut assertions by Larken & Kollen re: proposed disallowance of nuclear production costs.	(see above)
12.	R.A. Ladner, Jr. (FPL)	Rebut Larkins' characterization of Behavioral Science Research report as critique of FPL's efforts to obtain Deming Prize & as reflection of FPL employee dissatisfaction with Deming effort.	13
13.	H.A. Gower (FPL)	Rebut proposed application by Larkin and Kollen of O&M benchmark to disallow actual costs.	3, 17, 18, 24, 28, 49, 51

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EXHIBIT LIST

Exhibit Numbers:

a. Exhibit numbers will be assigned at the hearing. Exhibits will be numbered sequentially, beginning with Exhibit No. 1. Separate numerical sequences for individual parties will no longer be used.

b. The proffering attorney must identify each exhibit by title and prehearing identification number when requesting assignment of an exhibit number at hearing. When requesting an exhibit number for late-filed exhibits, the attorney must supply a short, descriptive title for the exhibit.

Staff's Exhibits:

<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
(WHB Doc. 1)	Brunetti (FPL)	Overview of Issues Raised
(WHB Doc. 2)	Brunetti (FPL)	Components of FPL's Management System
(WHB Doc. 3)	Brunetti (FPL)	Lost Time Injuries Indicator
(WHB Doc. 4)	Brunetti (FPL)	Doctor Cases Indicator
(WHB Doc. 5)	Brunetti (FPL)	Customer Complaints to the FPSC Indicator
(WHB Doc. 6)	Brunetti (FPL)	Fossil Plant Equivalent Forced Outage Rate Indicator
(WHB Doc. 7)	Brunetti (FPL)	Distribution Service Unavailability Indicator
(WHB Doc. 8)	Brunetti (FPL)	FPSC Customer Complaints for Voltage Problems

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
<u>(WHB Doc. 9)</u>	Brunetti (FPL)	Transmission Forced Outage Indicator
<u>(WHB Doc. 10)</u>	Brunetti (FPL)	FPL Price of Electricity Indicator
<u>(WHB Doc. 11)</u>	Brunetti (FPL)	Nuclear Plant Automatic Trip Rate Indicator
<u>(WHB Doc. 12)</u>	Brunetti (FPL)	Bright Ideas Suggestion Indicator
<u>(WHB Doc. 13)</u>	Brunetti (FPL)	Best Managed Quality Indicators-1985
<u>(WHB Doc. 14)</u>	Brunetti (FPL)	Best Managed Quality Indicators-1988
<u>(WHB Doc. 15)</u>	Brunetti (FPL)	Best Managed Quality Indicators-1992 Target
<u>(WHB Doc. 16)</u>	Brunetti (FPL)	FPL Quality/Delivery System
<u>(WHB Doc. 17)</u>	Brunetti (FPL)	FPL Cost Management System
<u>(WHB Doc. 18)</u>	Brunetti (FPL)	FPL Employee Safety Management System
<u>(WHB Doc. 19)</u>	Brunetti (FPL)	FPL Corporate Responsibility System
<u>(WHB Doc. 20)</u>	Brunetti (FPL)	Overview of FPL Vendor Quality Program
<u>(WHB Doc. 21)</u>	Brunetti (FPL)	Short Term Plan Performance Levels
<u>(WHB Doc. 22)</u>	Brunetti (FPL)	Base year Benchmark Comparisons

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
(WHB Doc. 23)	Brunetti (FPL)	Comparative Consultant/Counselor Costs
(KMD Doc. 1)	Davis (FPL)	Deloitte Haskins & Sells Independent Opinion
(KMD Doc. 2)	Davis (FPL)	Petition of FPL for Approval of Tax Savings Refund for 1988 and Tax Savings Refund Report
(KMD Doc. 3)	Davis (FPL)	Commission Memorandum - 1988 Tax Savings Report Forms & Instructions
(KMD Doc. 4)	Davis (FPL)	Final Revenue Refund Report for the Tax Savings Refund for 1988 - Total Interest and Base Revenue Actually Refunded
(KMD Doc. 5)	Davis (FPL)	O&M Benchmark Comparison by Function - Revised to Reflect the Effects of A&G Reclassifi- cation per Functional Area
(KMD Doc. 6)	Davis (FPL)	O&M Benchmark Guideline Comparison by Function - Company Response to Citizens' First Set of Interrogatories
(JSW Doc. 1)	Woodall (FPL)	Cost Management System
(JSW Doc. 2)	Woodall (FPL)	Administrative & General Expenses Per Customer
(JSW Doc. 3)	Woodall (FPL)	Straight Time Wages Over CPI
(JSW Doc. 4)	Woodall (FPL)	Total Company Salaries and Wages Cost Per Customer
(JSW Doc. 5)	Woodall (FPL)	Medical Benefits

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
<u>(JSW Doc. 6)</u>	Woodall (FPL)	Thrift Plan Expenses
<u>(JKH Doc. 1)</u>	Hays (FPL)	Glossary of Terms
<u>(JKH Doc. 2)</u>	Hays (FPL)	Radioactive Waste
<u>(JKH Doc. 3)</u>	Hays (FPL)	Automatic Trips
<u>(JKH Doc. 4)</u>	Hays (FPL)	NRC Violations
<u>(JKH Doc. 5)</u>	Hays (FPL)	Man-Rem Exposure
<u>(JKH Doc. 6)</u>	Hays (FPL)	Lost Time Accidents
<u>(JKH Doc. 7)</u>	Hays (FPL)	Documentation of Expenses Above Benchmark
<u>(Rebuttal JKH Doc. 1)</u>	Hays (FPL)	Excerpt from FPL's response to OPC's Interrogatory No. 6 Concerning Cost Savings/Cost Avoidance
<u>(Rebuttal JKH Doc. 2)</u>	Hays (FPL)	Comparison of Turkey Point Lifetime Operating (O&M and Fuel) Costs to Other Plants
<u>(JTP Doc. 1)</u>	Petillo (FPL)	Terminology Glossary
<u>(JTP Doc. 2)</u>	Petillo (FPL)	FPL Service Territory
<u>(JTP Doc. 3)</u>	Petillo (FPL)	FPL Facilities
<u>(JTP Doc. 4)</u>	Petillo (FPL)	Divisions' Organizational Structures

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
<u>(JTP Doc. 5)</u>	Petillo (FPL)	Comparison of Average Growth in Customers and Percentage Increase in Customers
<u>(JTP Doc. 6)</u>	Petillo (FPL)	Average Thunderstorm Days Per Year in United States
<u>(JTP Doc. 7)</u>	Petillo (FPL)	System of Indicators
<u>(JTP Doc. 8)</u>	Petillo (FPL)	Meter Reading Expenses/Meter
<u>(JTP Doc. 9)</u>	Petillo (FPL)	Actual Cost Per Customer vs. CPI
<u>(JTP Doc. 10)</u>	Petillo (FPL)	O&M Cost Per Customer
<u>(JTP Doc. 11)</u>	Petillo (FPL)	Divisions' Cost Management Process
<u>(JTP Doc. 12)</u>	Petillo (FPL)	Management Review Agenda
<u>(JTP Doc. 13)</u>	Petillo (FPL)	Distribution Material Cost Increase
<u>(JTP Doc. 14)</u>	Petillo (FPL)	O&M Benchmark Variance by Function
<u>(JWD Doc. 1)</u>	Dickey (FPL)	1988 Non-Fuel Operation & Maintenance Steam Production, Other Production & Other Power Supply Expenses
<u>(JWD Doc. 2)</u>	Dickey (FPL)	Plants and Services Locations
<u>(JWD Doc. 3)</u>	Dickey (FPL)	1988 Sources of Capacity

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
<u>(JWD Doc. 4)</u>	Dickey (FPL)	1988 Authorized Employees
<u>(JWD Doc. 5)</u>	Dickey (FPL)	12 Month Profile of Peak Load Hour Demand
<u>(JWD Doc. 6)</u>	Dickey (FPL)	Hourly Peak Demand Profile
<u>(JWD Doc. 7)</u>	Dickey (FPL)	Power Resources Organizational Structure
<u>(JWD Doc. 8)</u>	Dickey (FPL)	Power Resources Budget Process
<u>(JWD Doc. 9)</u>	Dickey (FPL)	Power Resources Department Operating Variance Report
<u>(JWD Doc. 10)</u>	Dickey (FPL)	Justification of 1988 Other Production Non-Fuel Operation and Maintenance Expenses
<u>(JWD Doc. 11)</u>	Dickey (FPL)	Justification of 1988 Other Power Supply Non-Fuel Operation and Maintenance Expenses
<u>(JWD Doc. 12)</u>	Dickey (FPL)	Justification of 1988 Steam and Other Production Non-Fuel Operation and Maintenance Expenses Comparison to Benchmark
<u>(JWD Doc. 13)</u>	Dickey (FPL)	Steam Production Expenses Barley Barber Swamp
<u>(JWD Doc. 14)</u>	Dickey (FPL)	Steam and Other Production Expenses Reclassification of A&G
<u>(JWD Doc. 15)</u>	Dickey (FPL)	Comparison of 1988 Steam and Other Production of O&M Expenses with APH Oil Fired Unit Expenses

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
(JWD Doc. 16)	Dickey (FPL)	Comparison of FPL vs. 15 Selected Utilities 1987 \$/MW-Fossil Generation - O&M Less Fuel
(JWD Doc. 17)	Dickey (FPL)	Overhauls - Line Item Detail
(Rebuttal JWD Doc. 1)	Dickey (FPL)	Page 44 of Order No. 13537, Docket No. 830465-EI
(RAL Doc. 1)	Ladner (FPL)	Excerpt from the BSR Top Line Summary Report
(HAG Doc. 1)	Gower (FPL)	Summary of Actual 1988 Tax Rate Savings and Certain Proposed Intervenor Refunds
(HAG Doc. 2)	Gower (FPL)	Price Increases of Replacement Components
(LK-1)	Kollen (FIPUG)	Resume of Lane Kollen, CPA, CMA
(LK-2)	Kollen (FIPUG)	Florida Power & Light Company Adjusted O&M Benchmark
(LK-3)	Kollen (FIPUG)	Florida Power & Light Company Adjusted Tax Savings Refund
(Rebuttal LK-1)	Kollen (FIPUG)	Florida Power & Light 1988 Annual Incentive Plan
(HL-1)	Larkin (OPC)	Schedules 1 through 10 below
	Schedule 1	Disallowance of EEI Dues
	Schedule 2	Disallowance of Advertisements
	Schedule 3	Benchmark Variance by Function

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
	Schedule 4	Disallowance of Management Backfit Support
	Schedule 5	Disallowance of Real Time Engineering Support
	Schedule 6	Comparison of Audits, 1985-'88
	Schedule 7	Comparison of Straight-time Rate
	Schedule 8	Removal of Straight-time Wage Increases
	Schedule 9	Summary of Adjustment
	Schedule 10	Calculation of Tax Refund
<u>(HL-2)</u>	Larkin (OPC)	Copies of Advertisement Recommended for Disallowance
<u>(HL-3)</u>	Larkin (OPC)	Japanese Consultants' Travel Expenses (Staff Interrogatory 4-36)
<u>(HL-4)</u>	Larkin (OPC)	Excerpts from NRC Reports Concerning Turkey Point and Independent Management Appraisal
<u>(HL-5)</u>	Larkin (OPC)	NRC Assessment of License Performance
<u>(HL-6)</u>	Larkin (OPC)	FPL Graph of Scheduled Outages
<u>(HL-7)</u>	Larkin (OPC)	1988 EEI Invoices Provided by FPL
<u>(Staff- 1)</u>	Petillo	Advantage Lighting Brochure Advantage Lighting Pamphlet

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
(Staff- 2)	Woodall	Visitors Guide to the Barley Barber Swamp
(Staff- 3)	Woodall	"Seasons in the Swamp"-video
(Staff- 4)	Woodall	"Minimize Beach Lighting"
(Staff- 5)	Woodall	Manatee Bumper Sticker
(Staff- 6)	Woodall	Sea Turtle Bumper Sticker
(Staff- 7)	Woodall	"Florida's Sea Turtles"-booklet
(Staff- 8)	Woodall	"Boaters' Guide to Manatees"-booklet
(Staff- 9)	Woodall	"Florida's Wood Storks-booklet
(Staff-10)	Woodall	"Florida's Alligators and Crocodiles"-booklet
(Staff-11)	Woodall	"The West Indian Manatee in Florida"-booklet
(Staff-12)	Woodall (Brunetti)	"Energizing for Excellence"
(Staff-13)	Dickey	Staff's 2nd Set of Interrogatories No. 21
(Staff-14)	Dickey	Staff's 4th Set of Interrogatories No. 37 (Attachment A, pages 7-20, 99-109, and 114-136)
(Staff-15)	Dickey	Staff's 4th Set of Interrogatories No. 38

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
<u>(Staff-16)</u>	Dickey	Staff's 4th Set of Interrogatories No. 40
<u>(Staff-17)</u>	Hays	Public Counsel 2nd Set of Interrogatories No. 54 a and b
<u>(Staff-18)</u>	Hays	Staff's 1st Production of Documents No. 13
<u>(Staff-19)</u>	Hays	Public Counsel UDI 5 yr Production Costs
<u>(Staff-20)</u>	Petillo	Staff's 4th Set of Interrogatories No. 41
<u>(Staff-21)</u>	Davis	Staff's 4th Set of Interrogatories No. 42
<u>(Staff-22)</u>		Agenda - Counseling Session with the Deming Prize Committee, JUSE Headquarters Tokyo, Japan-2/17/88
<u>(Staff-23)</u>		FPL Hearing Committee Meeting VI (6/27/88), Century Hyatt Hotel, Tokyo, Japan
<u>(Staff-24)</u>		Interrogatory No. 30 Staff Fourth Set (Pages 1-4)
<u>(Staff-25)</u>		Interrogatory No. 33 Staff Fourth Set (Pages 1-2)
<u>(Staff-26)</u>		Interrogatory No. 23 and Attachments-Staff Third Set (Pages 1 of 1 and 1-55)
<u>(Staff-27)</u>		Late-Filed Exhibit No. 1-Revised 6/28/89 of J.S. Woodall deposition (Pages 1-3)

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<u>Exhibit</u>	<u>Witness</u>	<u>Description</u>
(Staff-28)		Florida Public Service Commission Annual Report (1988) (Re: Consumer Complaints)
(Staff-29)		1988 Annual Incentive Plan-Florida Power & Light Company Officers 2/5/88
(Staff-30)		FPL Management Incentive Program - Compensation February, 1988
(Staff-31)		Top-Line Summary, Behaviorial Science Research, Tatoner and Vaidya (Pages 1-16)
(Staff-32)		Late-Filed Exhibit No. 12 of J.S. Woodall (Pages 1-2)
(Staff-33)		Interrogatories 4b & c- Revised Staff's First Set (Page 1 of 1)
(Staff-34)		Late-Filed Deposition Exhibit No. 4 from J.S. Woodall (Page 1 of 1)
(Staff-35)	Hays	Staff's 4th Set of Interrogatories No. 37 (Attachment B, pages 2-13, 19-42, and 45-50)
(Staff-36)	Petillo	Staff's 4th Set of Interrogatories No. 37 (Attachment C, pages 3-8, 10-23, 27-30 and 33-34)

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PARTIES' STATEMENTS OF BASIC POSITIONS:

Staff:

Staff believes that the amount that has been refunded by FPL for its 1988 tax savings is insufficient. Staff has used the O&M benchmark as an analytical tool and believes that certain of FPL's O&M expenses are unreasonable or unjustified. These adjustments to O&M expenses, along with other specific adjustments to the expense level of FPL, result in a higher tax savings refund level for 1988. Staff believes that it is always the responsibility of FPL to justify its expenses as being reasonable and prudent.

Florida Power & Light Company (FPL):

The appropriate tax savings refund for 1988 for FPL pursuant to Rule 25-14.003, F.A.C., is \$39,343,364 plus interest. FPL has already refunded \$43,164,399 which includes \$1,741,355 of interest related to FPL's 1987 and \$3,161,050 relating to FPL's 1988 Tax Savings Refund. The remaining amount to be refunded is \$1,081,370 plus interest. The tax savings refund proposed by FPL has been calculated consistent with Rule 25-14.003, F.A.C., and the applicable forms and instructions provided by the Commission and its staff. The refund amount, including interest, has been calculated consistent with the decision of this Commission in Order No. 20569 in Docket No. 880355-EI. The refund amount is based on the accounting books and records of FPL, which have been kept in the regular course of business in accordance with Generally Accepted Accounting Principles, and with the Uniform System of Accounts, as prescribed by this Commission. The accounting books and records were audited by an independent accounting firm, Deloitte Haskins & Sells, and fairly present the results of operations for 1988.

FPL's proposed refund is appropriate and should not be adjusted as other parties' witnesses have suggested. The proposed refund accurately reflects the 1988 revenues FPL earned in excess of the midpoint of the rate of return allowed to FPL for the purposes of this docket, as a result of the tax rate changes in that year, which is the only proper purpose of the tax savings refund required under Rule 25-14.003. The other parties' disallowances, if made, would result in FPL's

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refund reflecting deviations from actual operations wholly unrelated to tax rate changes.

The single most significant proposed area of disallowance is that associated with the application of the so-called O&M benchmark to FPL's actual 1988 O&M expenses. FPL does not believe the O&M benchmark approach is appropriate or is permissible under Rule 25-14.003, F.A.C. The Commission should not conclude that because FPL has presented direct testimony justifying its 1988 O&M expenses that it in any way acknowledges that consideration should be given to O&M benchmark disallowances.

Despite the intent of Rule 25-14.003, despite the decision of this Commission in Docket No. 880355-EI, despite the positions taken by both FIPUG and the Office of Public Counsel in that Docket and despite the fact that 1988 O&M expenses cannot be "unspent", there is an opportunistic attempt in this proceeding to disallow O&M expenses as a result of applying an O&M benchmark and misallocating a burden of proof to FPL. This is improper and unjustified, arbitrary and retroactive ratemaking.

Florida Industrial Power Users Group (FIPUG):

The Commission is responsible for ensuring that every utility's rates are fair, just and reasonable. In order to carry out this responsibility, the Commission must require each utility to justify the expenses it incurs, including O&M expenses, whether in the context of a rate case, fuel adjustment proceeding, or tax savings proceeding. This burden to prove the reasonableness and prudence of O&M expenditures clearly rests with FPL, as the entity seeking to retain monies paid by ratepayers through rates assuming a 46% federal income tax rate in order to offset O&M expenses which far exceed Commission guidelines. The standard of reasonableness and prudence which the Commission must apply is not met simply because an expense has been incurred.

The appropriate level for FPL expenditures was approved by this Commission in 1985 and these expenses should not be any greater in 1988 than they were in 1985, after inflation and customer growth are considered. However, with FPL's ever-increasing revenue came ever-increasing expenses. In

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determining FPL's return on equity, the Commission has used a larger rate base than it used in 1985 without ever determining the prudence of such investments. It has also allowed expenses to increase without question until they reach the level of the O&M benchmark. It is FIPUG's position that once the O&M benchmark is exceeded, FPL must provide clear and convincing evidence that such expenses were reasonable and prudent.

FPL has computed a 1988 tax savings refund of \$134.8 million before the return on equity limitation. Based on FPL's calculation of its earned rate of return versus its stipulated level of 13.6%, FPL contends that it is required to refund only \$38.2 million of the \$134.8 million savings. FPL proposes to keep \$96.6 million of its 1988 tax savings due to the return on equity limitation. However, this retention is directly attributable to FPL's excessive level of O&M expense above the benchmark. FPL has spent \$231.5 million more on O&M expense than the O&M benchmark indicates is reasonable and proper.

Explicit disallowances in various O&M categories are discussed in the separate list of issues which follows. In each case, when FPL's expenses are judged by objective criteria, the analysis demonstrates that FPL has failed to carry its burden of proof to justify such expenses as reasonable and prudent. The Commission should disallow \$190,495,000 of FPL's O&M expense and direct FPL to refund an additional \$131,055,000 plus interest to its ratepayers. Thus the total 1988 tax savings refund should be \$169,255,000 plus interest.

Office of Public Counsel:

The first step in this process is to calculate the amount of money that FPL saved in 1988 as a result of its Federal income tax rate being reduced from 46% to 34%. FPL's 1988 tax expense savings equated to revenues of \$146,036,176. That is the amount by which revenues exceeded what they would have been had rates been set using the 34% in effect for 1988, rather than the 46% which is included in the rates.

The second step, then, is to determine the amount of this tax savings FPL is going to be allowed to keep. Under the

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rule, (and subsequent stipulation) FPL is allowed to retain that portion of the tax savings necessary to keep its return on equity at about 14.9% (the 13.6% "normal" ROE is stipulated plus approximately 1.3% of ITC earnings ignored in the computation).

In calculation of FPL's earnings, the Commission should apply the same regulatory principles applied in FPL's last rate case. These principles include, of course, the O&M benchmark test for reasonableness of growth in expenses. Since that test resulted in disallowance of over \$80 million in FPL's last rate case. This same reasonableness test should not now be ignored in calculating FPL's earnings for the tax savings refund.

Upon applying the principles espoused in FPL's last rate case, the Citizens have determined that FPL's customers are entitled to an additional refund of \$107,814,513.

STATEMENT OF ISSUES AND POSITIONS

Legal Issues:

1. ISSUE: May FPL's O&M expenses be adjusted under the Tax Savings Rule, No. 25-14.003, to reflect application of an O&M benchmark?

STAFF: Staff uses the O&M benchmark as an analytical tool. After analysis of FPL's O&M expenses, Staff's position is that FPL's earnings should be adjusted for certain O&M expenses which are unreasonable or unjustified.

FPL: No. Such adjustment is inconsistent with the Rule, contrary to the intent of the Rule and in conflict with the Commission approved report form and instructions. The use of the O&M benchmark for Tax Savings purposes is retroactive rate making and will not allow FPL to earn its authorized return, moreover, O&M expenses may not be disallowed absent it being proved that such expenses were imprudently incurred.

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FIPUG: Yes. it is FIPUG's position that we are long past the point in this proceeding where this is an issue. However, because it is anticipated that FPL will continue to raise this issue, FIPUG will address it. FPL has agreed to try these issues in an evidentiary proceeding, and the Commission by setting these issues for hearing, has already determined that the issues are proper for the Commission's consideration and has determined to hear evidence in regard to them. O&M expense is an aspect of the determination of earned rate of return. The O&M benchmark is a long standing policy which must be incorporated in the Commission's review of tax savings. Absent such scrutiny, the tax savings rule would become a back door rate case with FPL passing on the prudence of its own expenditures.

OPC: Yes. FPL's Tax Savings Refund should be calculated consistent with the regulatory principles applied by the Commission in FPL's last rate case. In FPL's last rate case the Commission employed the O&M benchmark test as an analytical tool. Due to FPL's failure to justify the excess of certain functional expenses above the benchmark, the Commission disallowed over \$80 million of expenses sought by FPL in its last rate case. For 1988, FPL's expenses have grown at a rate considerably higher than even the amount which FPL failed to justify in the last rate case. In order to be consistent with the regulatory treatment applied in the last rate case, then, FPL's earnings must be calculated using the O&M benchmark as an analytical tool. In other words, to the extent that the growth of expenses in a given function exceeds the benchmark growth, then, FPL should be required to justify the excess or refund it. To allow FPL to keep all of these excessive expenses without justification would be directly contrary to the regulatory principles applied in FPL's last rate case.

In FPL's previous tax savings refund case, the Citizens argued that the O&M benchmark should be applied without any opportunity for FPL to present jurisdiction beyond that offered in the last rate case. The Citizens still strongly believe that approach is the proper treatment for a tax savings refund calculation. In an attempt to meet the Commission's objection in the last tax savings refund case, however, the Citizens have modified their approach for this case.

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2. ISSUE: Which party has the burden of proof on the issues in controversy in this proceeding?

STAFF: FPL has the burden of proof.

FPL: This issue is too vague. In fact, this issue directly relates to contention that FPL has the burden of proving that all expenses actually incurred by FPL in 1988 in the provision of electric service which are above the amount of the O&M benchmark for 1988 are reasonable and prudent.

The issue posed fails to reflect the position of both FIPUG and the Office of Public Counsel in FPL's tax savings refund proceeding for 1987 that it was not proper for there to be any evidence at all as to the reasonableness and prudence of O&M expenses in a proceeding under Rule 25-14.003. In addressing the contentions of both FIPUG and the Office of Public

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Counsel, the Commission rejected their position that the O&M benchmark was an automatic adjustment. Significantly, the Commission held "...that it is inappropriate to disallow the O&M expenses without competent and substantial evidence to support such a decision." (Order No. 200659 entered in Docket No. 880355-EI on January 25, 1988.)

Now, and despite their consistent positions to the contrary in Docket No. 880355-EI and the Commission's final Order in that Docket, FIPUG and Public Counsel seek to create an issue, as it were normal but not novel to a tax savings refund proceeding. This is not the case.

FIPUG also misstates the procedural predicate for this hearing in its attempt to support or justify the conclusion that FPL has the burden (of proving that expenses above the O&M benchmark are reasonable and prudent). It begins by asserting that "(A)s the petitioner, FPL has the burden to prove up (sic) its petition..." and that "(T)he burden of proof here is no different than in a case where a utility seeks to recover revenues from ratepayers for expenditures". FIPUG's arguments are inaccurate and illogical. First, and as it was affirmatively maintained by both FIPUG and Public Counsel in Docket No. 880355-EI and testified to by their expert witnesses, Messers, Larkin and Kollen, it is inappropriate for evidence to be presented to a proceeding under Rule 25-14.003 as to the reasonableness and prudence of O&M expenses. Quite clearly, it is therefore not necessary, and in fact it would be surplusage, for there to be any allegation in the petition that O&M expenses above the benchmark were reasonable and prudent. Consequently, there is no allegation "to prove up" that O&M expenses in excess of the O&M benchmark, are reasonable and prudent. Instead, FPL's filings include, among other matters, the actual 1988 O&M expenses for FPL. If anything was to be "proved up", it would be whether FPL's expenses presented in its filings were actual expenses. Significantly, no party has raised as an issue the contention that the expenses submitted by FPL were not actual or that FPL's filings pursuant to Rule 25-14.003 were different. Thus, it is not FPL's filings pursuant to Rule 25-14.003 or that the Rule itself that suggest any issue concerning O&M expenses above the

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benchmark. Instead, it is the various issues raised by the other parties to this proceeding that put the O&M benchmark methodology before this Commission.

The arguments presented in support of the assertion are illogical. Rates are not changed merely to "recover revenues from ratepayers for expenditure" as alleged except in the context of recovery clauses. In the setting of rates, either higher or lower the level of O&M "expenditures" is but one factor that is considered, and it is only significant if and only if the earned return is below or above the required return. All practitioners before this Commission are familiar with the concept that rates, once established by this Commission, are presumptively valid rates. If the utility seeks to change those presumptively valid rates, then it must provide by competent substantial evidence why a change is required. Conversely, if a party such as FIPUG or Public Counsel seek to change presumptively valid rates then they must provide why a change is required. In meeting this burden of proof, it is necessary to address the elements in the rate making mix (such as rate base, rate of return, revenues and expenses) that have changed so that previously established rates are no longer valid.

This is precisely the point addressed by the Florida Supreme Court in the decision cited by FIPUG - Florida Power Corporation v. Cresse, 413 So.2d 1187 (Fla. 1983). There, the court quoted WELCH, CASES AND TEXT ON PUBLIC UTILITY REGULATION, 6538 (Revised Edition 1968).

Burden of proof in a Commission proceeding is always on a utility seeking a rate change, and upon other parties seeking to change established rates.

Additionally, FIPUG misstates that holding in the Florida Power Corporation decision. Most importantly, it is clear that the disallowance of O&M expenses are urged by other parties to this proceeding must be supported and justified by competent and substantial evidence.

FIPUG: FPL. This docket began in March 1989 when FPL petitioned the Commission to approve the tax savings

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refund which it calculated. As the petitioner, FPL has the burden to prove up its petition, including the calculations of earned rate of return and proposed refund for which it seeks approval. The burden of proof here is no different than in a case where a utility seeks to recover revenues from ratepayers for expenditures. In each instance, the utility must demonstrate the reasonableness and prudence of its expenditures.

For example, in Florida Power Corporation v. Cresse, 413 So. 2d 1187 (Fla. 1982), Florida Power Corporation argued that legitimately incurred operating expenses are presumptively reasonable and proof that such costs were incurred satisfies the utility's burden of proof. Then, according to the utility, the burden shifts to the Commission (or intervenors) to prove that the costs were imprudently or unnecessarily incurred. The Florida Supreme Court explicitly rejected Florida Power Corporation's argument on burden of proof and held that the burden remains with the utility to justify its expenses. Similarly, in this case, the burden remains with FPL to justify its expenditures.

To place the burden of proof on Intervenor would put them in the untenable position of attempting to prove why they are entitled to monies which are prima facie theirs as a direct result of overpayment. FPL is seeking to retain ratepayers' overpayments; it must prove its entitlement thereto.

OPC: In 1988, FPL collected through its rates taxes calculated at a 46% level, but paid taxes to the IRS at only a 34% level. Of the \$146,036,176 differential which was collected from the customers but not paid to the IRS, FPL is attempting to keep over \$107 million for itself. In its effort to justify why it should keep the major portion of revenues to cover an "expense" that it is not actually incurring, FPL should be required to carry the burden of proof.

FACTUAL ISSUES:

3. ISSUE: Is FPL's 1988 Tax Savings Refund calculated in a manner consistent with the Commission's Rule No. 25-14.003, Florida Administrative Code?

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STAFF: FPL proposed this issue, which Staff believes is not relevant to the adjustments proposed herein. FPL calculated its refund in a manner consistent with the rule, but Staff does not agree with all accounting data and amounts used to complete the form. Further, the mere completion of a form and a calculation does not preclude this Commission from reviewing and adjusting the calculations.

FPL: Yes. (K.M. Davis/H.A. Gower)

FIPUG: The issue in this case is not mechanical compliance with the reporting format requirements of the tax savings rule or related forms; instead the issue is whether FPL has met its burden of proving that the proposed refund is appropriate. Part of that burden is justifying those O&M expenses which are over the benchmark. FPL has failed to meet that burden to the extent described by Mr. Kollen. (Kollen)

OPC: No. As explained in response to Issues 1 and 2, FPL has not applied the regulatory principles applied in its last rate case. Thus, FPL's tax refund calculation is inconsistent with Rule No. 25-14.003, F.A.C.

4. ISSUE: Should EEI expense for "U-groups", Media Communications, or dues expense above that stipulated by FPL be disallowed?

STAFF: Agree with FPL. However, if it is determined that expenses for "U-groups" are lobbying in nature, an additional \$148,000 (\$147,000 jurisdictional) should be disallowed.

FPL: FPL agrees with the Office of Public Counsel that \$192,875 (\$191,101 jurisdictional) associated with Power of Choice Marketing Activities and an additional \$186,927 (\$185,207 jurisdictional) to reflect one-third of EEI Administration Dues consistent with Order No. 13537 should be removed from the calculation of the 1988 Tax Savings Refund. These amounts are in addition to the \$77,654 (\$76,908 jurisdictional) that FPL previously agreed to. However, no other EEI expenses should be disallowed.

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FPL understands that the EEI "U-Group" for which expenses have been challenged is the Utility Nuclear Waste Management Group ("U-Waste"). U-Waste was not formed for the purpose of lobbying or utility image enhancement, and it does not serve those purposes. Its purpose is to provide an effective and economical vehicle for industry review and comment on Department of Energy and NRC Rules and Regulations. As such these expenditures are justified and prudent. (J.K. Hays/K.M. Davis/J.T. Petillo)

FIPUG: Yes. Agree with Public Counsel.

OPC: The Commission should apply three specific adjustments to EEI dues. First, the EEI administrative dues should be reduced by 33% (\$195,122) to remove lobbying expenses consistent with FPL's last rate order. Second, the separate EEI bills for the "power of choice" marketing activities (\$192,875) should be removed. Third, the PSC should disallow the separate invoices for "U-group" activities, (\$148,000) which advocate the electric industry's position on controversial issues. Finally, the downward adjustment should be offset by the \$76,908, which FPL had already removed. The total reduction should be \$534,000. (Larkin)

5. ISSUE: Should the expense for certain specific advertising purchased by FPL, as identified in Document HL-2 sponsored by Hugh Larkin, be disallowed?

STAFF: Agree with Public Counsel. The advertising is promotional and image building and therefore should not be included in the calculation of tax savings.

FPL: Of the 25 advertisements identified in Exhibit HL-2 totalling \$630,892 in expense, \$50,319 should not be recognized in the tax savings calculation because they should have been recorded below in the line. In addition, \$14,059 of advertisements not challenged by Mr. Larkin should also be removed from the tax savings calculation because they should have been recorded below the line. As a result of FPL's continuing analysis, \$64,378 (\$64,378 jurisdictional) for merchandising advertisements for customer owned lighting that should have been charged to account 416.3 were erroneously charged to account 909.

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These expenses should be moved to account 416.3 and not included in FPL's 1988 Tax Savings Refund calculation.

The remaining \$580,573 of advertising expenses challenged by Mr. Larkin should be allowed. \$281,825 of those advertising expenses were previously reviewed by the Commission and approved for cost recovery through the Energy Conservation Cost Recovery clause and consequently were not included in the 1988 Tax Savings Refund calculation. None of the remaining advertisements are unduly image enhancing and provide necessary information to FPL's customers related to the provision of electric service. (J.T. Petillo)

FIPUG: Yes. Agree with Public Counsel.

OPC: Yes. Mr. Larkin has identified a number of specific adjustments which are self-promotional in nature and should not be charged to the ratepayers. A total of \$625,088 should be removed. (Larkin)

- *6. STIPULATED ISSUE: Should \$53,550 (\$54,007 system) in expenses associated with the new FPL logo be disallowed?

Yes. These expenses should be disallowed. Expenses should be reduced by \$53,550 (\$54,007 system).

7. ISSUE: Should \$142,452 (\$143,667 system) in expenses associated with publishing a series of booklets on endangered species be disallowed?

STAFF: All expenses associated with the production of these booklets should be disallowed. Staff was initially told that these expenses totalled \$142,452 (\$143,667 system). Florida Power and Light has indicated in its supplemental Prehearing Statement that J.S. Woodall's 6/7/89 late filed Exhibit No. 12 should have totalled \$114,814.22 instead of \$144,814.22, because of an addition error. Therefore, subject to further review of the total of expenses, we recommend that \$112,701 (\$113,667 system) be disallowed because these expenses are image building in nature.

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FPL: No. FPL should provide messages regarding endangered species which may be affected by FPL's operations. FPL believes that the benefits associated with these programs far outweigh the minimal cost associated with informing the public regarding these endangered species, which inhabit our service territory. FPL believes that these booklets meet the requirements in Order Nos. 7843 and 6465 as they are informational and utility related in that the animals they address inhabit FPL plant sites and property. Additionally, upon further review of FPL's responses to discovery requests, a typographical error of \$30,000 was found. The total on J.S. Woodall's 6/8/89 Late Filed Exhibit No. 12 should have been \$114,814.22 instead of \$144,814.22. Staff's inclusion of these items in its total recommended disallowance needs to be adjusted. The amounts at issue should be \$113,667 (\$112,701 jurisdictional). (J.S. Woodall)

FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: Because these expenses are not necessary for the provision of electric service, they should be removed. (Larkin)

8. ISSUE: Should \$34,699 (\$34,995 system) in expenses associated with the video entitled "Seasons in the Swamp" be disallowed?

STAFF: Yes. Since the \$34,699 (\$34,995 system) expenses are basically image-building in nature, these expenses should be disallowed.

FPL: No. FPL should provide messages on endangered species which may be affected by FPL's operations. FPL believes that the benefits associated with these programs far outweigh the minimal cost associated with informing the public regarding these endangered species, which inhabit our service territory. FPL believes that the "Seasons in the Swamp" video meets the requirements in Order Nos. 7843 and 6465 as it is informational and utility related in that the animals it addresses inhabit FPL plants and property. (J.S. Woodall)

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FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: Because these expenses are not necessary for the provision of electric service, they should be removed. (Larkin)

9. ISSUE: Should expenses associated with conducting tours of the Barley Barber Swamp be disallowed?

STAFF: Expenses for conducting tours in the amount of \$31,561 (\$32,147 system) should be disallowed because the expenses are not necessary to provide electrical service to ratepayers. Expenses for general maintenance and payroll in the amount of \$27,170 (\$27,674 system) should be allowed.

FPL: No. The Barley Barber Swamp tours demonstrate that a power plant providing electricity can be constructed and operate while still protecting environmental quality. Clear demonstration that such opportunities can be taken advantage of where they occur, is important to the Company's ability to gain public acceptance and government environmental approvals for its facilities. This is especially true in FPL service territory that contains so many sensitive environmental features. Therefore, the entire \$32,147 (\$31,561, jurisdictional) in expenses associated with conducting the tours should be allowed. (J.W. Dickey)

FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: Because these expenses are not necessary for the provision of electric service, they should be removed. (Larkin)

10. ISSUE: Should \$121,000 (\$122,035 system) in expenses associated with the magazine "Energizing for Excellence" be disallowed?

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STAFF: Yes. These expenses should be disallowed. Expenses should be reduced by \$121,000 (\$122,035 system) because the magazine is image-enhancing in nature.

FPL: No. "Energizing for Excellence" is an educational, informational brochure designed to give a history, overview and understanding of FPL's Quality Improvement Process. The brochure provides a consistent, clear and accurate description of FPL's management philosophy and system. An understanding of this business philosophy by those with whom the Company must deal enhances its success, which translates into lower cost and higher quality electrical service to its customers.

It is an informational brochure for existing employees, new employee orientation, recruiting of new employees, customers, vendors, Federal, State and Local Governmental agencies which provides a clear, consistent and accurate description of QIP and the costs should not be disallowed. (W.H. Brunetti)

FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: This magazine is image-building in nature and is more properly charged to QualTec, the FPL affiliate which markets portions of the Quality Improvement Program. O&M expenses of \$121,000 should be removed. (Larkin)

- *11. STIPULATED ISSUE: Should the expense for printing materials for the Malcolm Baldrige Foundation be disallowed?

Yes. The \$104,062 (\$104,062 system) in expenses associated with printing materials for the Malcolm Baldrige Foundation should be disallowed.

12. ISSUE: Should the expenses associated with the monthly QIP orientation seminars be disallowed?

STAFF: Yes, \$50,000 (\$50,000 system) should be disallowed for the monthly QIP orientation seminars held

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by FPL. QualTec sells QIP and should sponsor the monthly meetings.

FPL: No. FPL provided the seminars in response to numerous inquiries concerning the Company's Quality Improvement Process and requests for visits to FPL facilities. This is the most cost effective means of providing information to a group, rather than through a large number of individual sessions (in 1988 alone, requests for on-site visits numbered over 1,500). Many of those in attendance are those who transact business with FPL, e.g. vendors, and their commitment to quality as a result of these meetings provides benefits to the customers of FPL. These costs should be allowed. (W.H. Brunetti)

FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: The benefits to ratepayers from these seminars is questionable and is more appropriately an activity of QualTec. O&M should be reduced by \$50,000. (Larkin)

13. ISSUE: Should the expenses associated with FPL's quest for the Deming Prize be disallowed?

STAFF: Yes, expenses of \$398,599 (\$402,072 system) associated with FPL's quest for the Deming Prize should be disallowed. The motivation for the prize was, in part, to achieve corporate recognition.

FPL: No. QIP is a comprehensive management process designed to improve the Company's results in providing service to its customers. FPL's pursuit of the Deming Prize was an effective means of accelerating the QIP, and it was most successful in that regard. For three of the Company's short-term plans, FPL's pursuit of the Deming Prize resulted in the achievement of performance levels more than three years earlier than expected. (W.H. Brunetti/R.A. Ladner)

FIPUG: Yes. FPL has not demonstrated that these

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expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: Yes. Obtaining the Deming Prize was basically an image-enhancement coup for FPL. In addition, the effort appears to have negatively affected employee morale and possibly the quality of customer service. O&M expenses should be reduced by \$398,599. (Larkin)

14. ISSUE: Should the expenses incurred for FPL's retention of certain quality consultants be disallowed?

STAFF: Yes. These expenses should be disallowed because expenses paid by FPL are excessive and have not been shown to be prudent or cost beneficial. Fees and expenses should be reduced by \$884,931 (\$892,481 system).

FPL: No. The expenses FPL incurred in hiring the counselors and consultants were prudent and cost beneficial. FPL's Quality Improvement Process is modeled after Total Quality Control (TQC), a management theory which has been adopted and applied with much success for a number of years in Japan. FPL investigated potential candidates to act as counselors and consultants to assist in the implementation of its Total Quality Control management system, QIP. The counselors employed had success in applying TQC principles to a service company. Even if the Commission were to determine that the costs of the particular consultants in question were excessive, the resulting disallowance should not be the entire amount but merely the difference between FPL's actual cost and the cost of alternative counselors established as being more reasonable. The costs incurred were reasonable and prudent. (W.H. Brunetti)

FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: Yes. The cost incurred for certain consultants has not been demonstrated to be prudent or cost-effective. Additionally, the consultants engaged in numerous

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extravagant practices (accompanying spouses, first-class travel, excessive hotel rates) apparently charged to FPL. These expenses should not be borne by ratepayers, so \$884,931 should be removed. (Larkin)

15. ISSUE: Should FPL employees' trips to Japan be disallowed?

STAFF: Yes, \$720,568 (\$726,716 system) of expenses associated with FPL employees travelling to Japan should be disallowed. Staff fails to comprehend why field trips to Japan were necessary to implement Total Quality Control. Also, some of the costs associated with these trips relate to FPL's quest for the Deming Prize. (See Issue 13)

FPL: No. Through research efforts, FPL discovered that the Japanese understanding and application of Total Quality Control as a management System to assure Customer Satisfaction was the best in the world. It was only by seeing first-hand how Japanese companies applied Total Quality Control as their management system that FPL employees were able to bridge the gap between theory and application. The costs of trips were reasonable and prudent. (W.H. Brunetti)

FIPUG: Yes. FPL has not demonstrated that these expenses were necessary to the provision of electric service or that they were otherwise prudent and reasonable. (Kollen)

OPC: Yes. In addition to the expenses identified in Issue 14, FPL sent 101 employees (including repeat travel) to Japan at a cost of \$720,568, to attend conferences, visit Japanese companies, etc. This effort appears to be extravagant and the goals likely could have been accomplished with a less costly program. The \$720,568, therefore, should be removed. (Larkin)

16. ISSUE: What is a reasonable level of Uncollectible Expense for 1988?

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STAFF: The reasonable level is \$11,508,000 based on actual write-offs net of recoveries. This would require a \$5,900,081 reduction in expense for 1988.

FPL: A proper and reasonable level of uncollectible accounts expense for 1988 is \$17,408,081 (system and jurisdictional). This amount represents the provision for uncollectible account expenses and properly matches the expenses with the revenues reported for the period. Staff's proposal to disallow \$5,900,081 and allow only the net amount actually written off in 1988, \$11,508,000, results in an understatement of the amount of customer accounts receivable that are expected to be ultimately written off. Furthermore, the Customer Accounts Function is below the 1988 benchmark even with the entire \$17,408,081 (system and jurisdictional) provision for uncollectible accounts. (K.M. Davis/J.T. Petillo)

FIPUG: The reasonable level of uncollectible expense for 1988 is \$11,508,000. This amount reflects average bad debt write-offs net of recoveries for 1988. A \$5,900,081 reduction in this category is necessary for 1988. (Kollen)

OPC: In 1984, FPL was allowed an uncollectable expense of \$10,629,000. In 1988, FPL accrued an expense of \$17,408,081, a 63.78% increase. In discovery, FPL stated that the actual write-offs had remained relatively constant over that same time frame. It would appear, then, that FPL has overstated a reasonable level of accrual expense. The uncollectibles should be reduced at least \$2,924,000. (Larkin)

17. ISSUE: Should expenses be reduced by \$12,200,000 (\$12,097,000 jurisdictional) excess over the 1988 benchmark due to expenditures for the Employee Thrift Plan?

STAFF: Yes, expenses should be reduced by \$12,097,000 consistent with the Commission's decision in FPL's last rate case (Order No. 13537, Docket No. 830465-EI).

FPL: No. That portion of the Thrift Plan expense disallowed in the last rate case (the amount above the

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benchmark applied to that item) was not due to a "specific adjustment" as Staff has stated. It was due to the Commission finding that the Company had not provided "competent substantial evidence" that the increases related to the bargaining unit in its Thrift Plan were necessary to the provision of electric service. FPL explained and justified the costs of its Employee Thrift Plan. It is also part of the total retirement package and its use permits a more cost effective way of providing reasonable retirement benefits. Upon further review, it has been noted that the capitalization versus expense ratio had not been applied to the Thrift Plan costs. After applying this ratio to the \$12,097,000 total cost the appropriate Thrift Plan expenses at issue would be \$10,494,000 (\$10,397,000 jurisdictional). (J.S. Woodall, K.M. Davis, H.A. Gower)

FIPUG: Yes. This item was specifically disallowed in Docket No. 830465-EI. (Kollen)

OPC: No. In FPL's last rate case, the Commission made a specific adjustment because FPL failed to demonstrate "that its Employee Thrift Plan, let alone the increase in that plan are necessary to its provision of electric service to its customers." Consistent with that decision, the Commission should disallow the \$12,097,000 by which the expense exceeds the benchmark. (Larkin)

- 18. ISSUE: FPL claims it exceeded the O&M benchmark by \$30,167,000 (\$29,929,000 jurisdictional) due to increases in salaries and wages. Should this amount be recognized in O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: Recovery of this increase in salaries and wages should be allowed if the Commission accepts the utility's wage comparison study.

FPL: Yes. This is a new issue. FPL's salaries and wages are reasonable. As suggested by the Commission in FPL's last rate case, FPL has evaluated its wages and salaries in comparison to industry surveys and indices. When compared to the industry salary surveys, FPL compares very favorably. As it is shown in FPL

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testimony, CPI is not an appropriate benchmark index for wages and salaries. (J.S. Woodall/H.A. Gower)

FIPUG: No. First, in all salary categories where FPL exceeded the benchmark, FPL improperly functionalized \$36.7 million of salaries which exceeded the benchmark. This amount is improperly based on 1988 employees rather than 1985 base year employees. FPL's \$36.7 million should be reduced to \$33.5 million based on the ratio of 1985 employees to 1988 employees and FIPUG's recommended disallowances are based on that amount. See Table 3, p. 21, prefiled direct testimony of Mr. Kollen.

Second, FPL's claim for excessive salary expenses over the benchmark is not a justification warranting cost recovery. Its claim does not meet the appropriate criteria for recovery. When FPL's salaries are compared to CPI growth, to combined CPI and customer growth, to similar utilities, to itself historically, and to averages for employees in the market, it becomes clear that FPL wages are excessive and that those expenses over the benchmark should be disallowed. While the CPI increased by 10% between 1985 and 1988, and the combined CPI and customer growth increased by 24%, FPL's salary and wage expense increased by 32.9%. Similarly, FPL's salaries and wages have grown much more than that of the three other Florida investor-owned utilities. Additionally, when a comparison is made between FPL salaries and the American Compensation Association ("ACA") index for 1985 to 1988, FPL's salaries are clearly excessive. However, the ACA index is not an appropriate proxy for inflation because it does not include hourly employees. FPL's 1988 salaries above the O&M benchmark have not been justified and should be disallowed. (Kollen)

OPC: FPL's average wages for exempt and non-exempt personnel exceeded the average for electric utilities located in the South by 10.4% and 13.3%, respectively. A number of other comparisons show FPL to be on the high end of the scale for the region. It follows, then, that the amount by which FPL's wage and salary increases have exceeded a reasonable growth factor (CPI plus customer growth) cannot be justified. O&M expenses should be reduced by \$29,929,000. (Larkin)

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19. ISSUE: Should the Commission utilize its determination, if any, of a revised O&M benchmark based upon the Company's justifications in this proceeding, as the O&M benchmark base amounts for future FPL rate proceedings?

STAFF: Agree with FIPUG.

FPL: FPL protests the use of the O&M benchmark in this proceeding. If, however, the Commission ultimately determines the use of the O&M benchmark should be used, the 1988 actual O&M expenses should be used in future proceeding. (W.H. Brunetti)

FIPUG: No. If the Commission accepts, for purposes of computing the 1988 tax savings refund, any justification of excess amounts over the O&M benchmark, the amounts should not be considered as the O&M benchmark base for future rate proceedings.

OPC: Agree with FIPUG.

20. ISSUE: [Steam and Other Production; Scheduled Outages \$31,811,359] FPL claims it exceeded the O&M Benchmark, in part, by \$31,811,359 (\$31,366,000 jurisdictional) to reduce scheduled outages. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$7,841,500 should be disallowed. FPL explains that these expenses grow faster than CPI and customer growth benchmark; but the company does not explain what indicator(s) should be used. FPL identified the O&M expenses actually incurred for each generating plant in 1988 and actual total O&M expenditures for the periods 1984 through 1988. Actual 1988 O&M expenses for Steam and Other Production are 22.9% higher than 1987 actual O&M expenses and 61.6% higher than 1988 benchmark O&M expenses. Staff continues to question the high rate of growth in these expenditures, and consequently \$7,841,500 should be disallowed.

FPL: Yes. FPL has established that all \$40,642,000 (Jurisdictional) of Steam and Other Production scheduled

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outage expenses in 1988 are justified. The portion of these expenses over the benchmark are \$31,366,000 (\$30,922,000 Jurisdictional)

Scheduled outage or overhaul costs are not related to CPI or any other index. Despite sophisticated and rigorous cost control mechanisms, FPL's labor and material costs related to scheduled outages have escalated at a rate faster than CPI. However, the principal element which has driven scheduled outage expense increases is the expanded scope of overhaul work. FPL has intentionally expended the scope of overhaul work on its system since 1985 to maintain and improve availability, improve unit efficiency and meet increased environmental and safety requirements. These intentional management activities are designed to benefit FPL's customers and to protect the public. Quantifiable benefits associated with these expenses are over \$190,000,000, more than six times the benchmark variance for this item of expense.

The only truly meaningful analysis of scheduled outage expense is to review each of the actual expenses. FPL has provided extensive, detailed justification of these expenses down to the 4,600 jobs comprising these \$40,642,000 in expenses. That exhaustive justification has been ignored by other parties, and not one particular expense has been questioned. FPL's entire scheduled outage expenses over the benchmark are justified and should be allowed. (J.W. Dickey)

FIPUG: No. FPL's claim for excessive steam production costs over the benchmark is not a justification warranting cost recovery. FPL's claim does not meet the objective criteria set out in Mr. Kollen's direct testimony. FPL has delineated eight major categories of fossil production O&M expense which account for its expenses being \$70.7 million over the benchmark. With the exception of the Cutler Plant reactivation and St. John's River Power Park, FPL has not justified these excessive expenses. FPL does not use or qualify a single productivity or improvement program in the fossil production area which results in net cost savings.

FPL's actual fossil production O&M expense has grown dramatically both in total and on a per KW basis.

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Further, when FPL's excessive fossil production O&M expense (in all eight categories including outages) is compared to that of the other three Florida investor-owned utilities (which are subject to the same conditions), it becomes clear that FPL's expenses are excessive. The other utilities have been able to control their O&M expense to growth rates less than inflation. FPL has not demonstrated why it cannot do so as well. FPL should not recover expenses in excess of the benchmark, with the exception of the Cutler Plant reactivation and St. John's River Power Park. Thus, \$56.1 million dollars of excess fossil production O&M should be disallowed. (Kollen)

OPC: No. FPL attempts to explain this excess by claiming an increase in scheduled outages. For the base year, however, FPL experienced about the same number of planned outages as in 1988. Thus, FPL has not fully justified its excess above the benchmark. Accordingly, the Commission should remove 50% (\$5,683,000) of the excess above the benchmark.

- 21. ISSUE: [Steam and Other Production; Cutler Plant Reactivation \$8,409,736] FPL claims it exceeded the O&M Benchmark, in part, by \$8,409,736 (\$8,292,000 jurisdictional) for the reactivation of Cutler Plant Units 5 and 6. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: Staff believes that cost recovery of \$8,292,000 for Cutler's reactivation costs should be allowed. However, FPL should offset O&M expenses approved and included in the 1985 benchmark, on a pro-rata share for Units 5 and 6.

FPL: Yes. The \$8,292,000 (\$8,175,000 Jurisdictional) amount explained and justified by FPL in Mr. Dickey's testimony and exhibit is the proper amount of O&M expenses associated with the reactivation of Cutler Plant Units 5 and 6, and should be allowed. There should be no offset of these reactivation O&M expenses with the day to day operational expenses allowed for the Cutler Plant in FPL's last rate case as there were comparable day to day operating expenses in 1988 over and above the 1988 reactivation expenses. (J.W. Dickey)

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FIPUG: FIPUG does not contest the Cutler Plant reactivation expense claimed by FPL in this proceeding. However, this expense should not be included in the O&M expense base for future proceedings because it is a nonrecurring expense.

OPC: Agree with Staff.

22. ISSUE: [Steam and Other Production; St. John's River Power Park \$6,436,106] FPL claims it exceeded the O&M Benchmark, in part, by \$6,436,106 (\$6,346,000 jurisdictional) for newly-acquired generation. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: Consistent with the treatment given new plants in the last rate case, cost recovery from customers of \$6,346,000 for the St. John's River Power Park should be allowed.

FPL: Yes. The \$6,346,000 (\$6,256,000 Jurisdictional) in expenses associated with the operations of the St. John's River Power Park were necessary and have been justified. (J.W. Dickey)

FIPUG: FIPUG does not contest the St. John's River Power Park expense claimed by FPL.

OPC: No contention.

23. ISSUE: [Steam and Other Production; reclassification of Administrative and General expenses, \$3,910,751] FPL claims it exceeded the O&M Benchmark in part by \$3,910,751 (\$3,856,000 jurisdictional) due to a reclassification of Administrative and General expenses to Steam and Other Production plant. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: The O&M benchmark has been exceeded in part by \$3,856,000 in the Steam Production function due to the reclassification of Administration and General expenses. Staff believes that the company should be allowed recovery

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of the reclassified expenses because the Administrative and General O&M expenses have been decreased by the corresponding amount and continues to be below the benchmark level.

FPL: As set forth in Mr. Davis' testimony, FPL has restated the O&M benchmark to recognize the reclassification of expenses from the Administrative and General function to other FERC functions. That is the proper means of addressing the issue of A&G reclassification. If FPL's approach as outlined by Mr. Davis is followed, this is no longer a justification over expenses exceeding the benchmark.

In FPL's response to Staff's Interrogatory No. 21, FPL demonstrated that if these expenses had not been reclassified the A&G Function's level of expenses would nonetheless have been justified. Staff initially rejected that approach and suggested these expenses, which clearly are incremental to the Functions other than A&G should be justified. While FPL believes the restated O&M benchmark is the proper means of addressing reclassified A&G expenses, FPL has justified these expenses on a stand alone basis in Mr. Dickey's testimony. (K.M. Davis/J.W. Dickey)

FIPUG: No. FPL's claim for excessive steam production costs over the benchmark is not a justification warranting cost recovery. FPL's claim does not meet the objective criteria set out in Mr. Kollen's direct testimony. FPL has delineated eight major categories of fossil production O&M expense which account for its expenses being \$70.7 million over the benchmark. With the exception of the Cutler Plant reactivation and St. John's River Power Park, FPL has not justified these excessive expenses. FPL does not use or qualify a single productivity or improvement program in the fossil production area which results in net cost savings.

FPL's actual fossil production O&M expense has grown dramatically both in total and on a per KW basis. Further, when FPL's excessive fossil production O&M expense (in all eight categories including outages) is compared to that of the other three Florida investor-owned utilities (which are subject to the same conditions), it

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becomes clear that FPL's expenses are excessive. The other utilities have been able to control their O&M expense to growth rates less than inflation. FPL has not demonstrated why it cannot do so as well. FPL should not recover expenses in excess of the benchmark, with the exception of the Cutler Plant reactivation and St. John's River Power Park. Thus, \$56.1 million dollars of excess fossil production O&M should be disallowed. (Kollen)

OPC: No contention.

24. ISSUE: [Steam and Other Production Structural Maintenance Coatings Program \$3,143,002] FPL claims it exceeded the O&M benchmark, in part, by \$3,143,002 (\$3,099,000 jurisdictional) due to a structural maintenance coatings program. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: Staff believes that the company should recover \$294,000 of the requested amount. The remaining \$2,805,000 should be disallowed because maintenance expenses for a similar program are included in the 1985 O&M benchmark.

FPL: Yes. FPL agrees with Staff's 12/7/89 recommendation that all of these expenses should be allowed, but disagrees with Staff's calculations of reducing the expenses with the future cost avoidance that may be realized from this program. The imputation of projected cost avoidances in 1990 and beyond into a historic period is a "going forward" adjustment and is improper. Therefore, the entire \$3,099,000 (\$3,054,000 Jurisdictional) of expenses associated with this program should be allowed. (J.W. Dickey/K.M. Davis/H.A. Gower)

FIPUG: No. FPL's claim for excessive steam production costs over the benchmark is not a justification warranting cost recovery. FPL's claim does not meet the objective criteria set out in Mr. Kollen's direct testimony. FPL has delineated eight major categories of fossil production O&M expense which account for its expenses being \$70.7 million over the benchmark. With the exception of the Cutler Plant reactivation and St. John's River Power Park, FPL has not justified these excessive expenses. FPL does

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not use or qualify a single productivity or improvement program in the fossil production area which results in net cost savings.

FPL's actual fossil production O&M expense has grown dramatically both in total and on a per KW basis. Further, when FPL's excessive fossil production O&M expense (in all eight categories including outages) is compared to that of the other three Florida investor-owned utilities (which are subject to the same conditions), it becomes clear that FPL's expenses are excessive. The other utilities have been able to control their O&M expense to growth rates less than inflation. FPL has not demonstrated why it cannot do so as well. FPL should not recover expenses in excess of the benchmark, with the exception of the Cutler Plant reactivation and St. John's River Power Park. Thus, \$56.1 million dollars of excess fossil production O&M should be disallowed. (Kollen)

OPC: As pointed out by the PSC Staff, FPL began its corrosion control program in 1982. The program should result in saving in other specific expenses. Since this program was offered to justify an aggregate of functional expenses, any cost savings appearing in the same function must offset the cost of the program. Staff estimated annual savings to be \$2,805,000, which should offset the justification offered by FPL. (Larkin)

25. ISSUE: [Steam and Other Production Plant; Environmental and Safety Related Activities \$2,867,140] FPL claims it exceeded the O&M benchmark, in part, by \$2,867,140 (\$2,827,000 jurisdictional) due to environmental and safety related activities. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL has identified the various program expenditures for these activities. Staff believes that the requested \$2,827,000 should be recovered. However, Staff questions what the appropriate cost escalation indicators are for this function, along with the corresponding expenses approved in the 1985 O&M benchmark for environmental and safety related activities.

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FPL: Yes. The \$2,827,000 (\$2,787,000 Jurisdictional) in expenses over the benchmark associated with Environmental and Safety programs were necessary to comply with increasing environmental requirements and safety concerns. Therefore, the entire \$2,827,000 should be allowed. (J.W. Dickey)

FIPUG: No. FPL's claim for excessive steam production costs over the benchmark is not a justification warranting cost recovery. FPL's claim does not meet the objective criteria set out in Mr. Kollen's direct testimony. FPL has delineated eight major categories of fossil production O&M expense which account for its expenses being \$70.7 million over the benchmark. With the exception of the Cutler Plant reactivation and St. John's River Power Park, FPL has not justified these excessive expenses. FPL does not use or qualify a single productivity or improvement program in the fossil production area which results in net cost savings.

FPL's actual fossil production O&M expense has grown dramatically both in total and on a per KW basis. Further, when FPL's excessive fossil production O&M expense (in all eight categories including outages) is compared to that of the other three Florida investor-owned utilities (which are subject to the same conditions), it becomes clear that FPL's expenses are excessive. The other utilities have been able to control their O&M expense to growth rates less than inflation. FPL has not demonstrated why it cannot do so as well. FPL should not recover expenses in excess of the benchmark, with the exception of the Cutler Plant reactivation and St. John's River Power Park. Thus, \$56.1 million dollars of excess fossil production O&M should be disallowed. (Kollen)

OPC:

26. ISSUE: [Steam and Other Production; Data Processing expenses \$2,623,732] FPL claims it exceeded the O&M Benchmark, in part, by \$2,623,732 (\$2,587,000 jurisdictional) to rent, operate and maintain computers in the Corporate Production and Timeshare Systems. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

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STAFF: FPL identified \$1,491,000 of reallocated A&G data processing expenses. Staff believes that these costs should be approved as A&G expenses are below the benchmark. Staff believes that of the remaining \$1,096,000, \$274,000 should be disallowed to offset productivity enhancements.

FPL: Yes. The data processing expenses in Steam and Other Production over the benchmark, \$1,096,000 (\$1,080,000 Jurisdictional) are justified. These expenses are for enhancements to existing systems which allowed FPL to collect additional data and undertake analysis previously not done. In addition to these \$1,080,000 of data processing expenses, there were \$1,491,000 (\$1,469,000 Jurisdictional) of data processing costs reclassified from A & G to Steam and Other Production. These expenses have been addressed through Mr. Davis' restated 1988 O&M benchmark. (J.W. Dickey)

FIPUG: No. FPL's claim for excessive steam production costs over the benchmark is not a justification warranting cost recovery. FPL's claim does not meet the objective criteria set out in Mr. Kollen's direct testimony. FPL has delineated eight major categories of fossil production O&M expense which account for its expenses being \$70.7 million over the benchmark. With the exception of the Cutler Plant reactivation and St. John's River Power Park, FPL has not justified these excessive expenses. FPL does not use or qualify a single productivity or improvement program in the fossil production area which results in net cost savings.

FPL's actual fossil production O&M expense has grown dramatically both in total and on a per KW basis. Further, when FPL's excessive fossil production O&M expense (in all eight categories including outages) is compared to that of the other three Florida investor-owned utilities (which are subject to the same conditions), it becomes clear that FPL's expenses are excessive. The other utilities have been able to control their O&M expense to growth rates less than inflation. FPL has not demonstrated why it cannot do so as well. FPL should not recover expenses in excess of the benchmark, with the exception of the Cutler Plant reactivation and St. John's River Power Park. Thus, \$56.1 million dollars of excess fossil production O&M should be disallowed. (Kollen)

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OPC: Agree with Staff.

27. ISSUE: [Steam and Other Production Plant, Other \$6,185,598] FPL claims it exceeded the O&M Benchmark in part by \$6,185,598 (\$6,099,000 jurisdictional) for efforts involved in addressing the availability, maintainability, efficiency and safety of the fossil generating units. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL has individually identified these expenses as \$3,011,000 for Environmental and Safety and \$3,088,000 for fossil unit overhauls. The total "Other" expense is now \$6,099,000, of which the company identified and explained the various expenditures. Staff questions the inclusion of a portion of these costs as already being accounted for in the 1985 benchmark analysis. Staff believes \$1,407,000 of the Environmental and Safety related expenses and \$503,000 of overhaul expenses should be disallowed. Therefore, Staff believes a total of \$1,910,000 (\$1,407,000 + \$503,000) should be disallowed.

FPL: Yes. The \$6,099,000 (\$6,023,000 Jurisdictional) of Steam and Other production expenses over the 1988 benchmark have been completely justified. Where applicable, FPL has properly quantified the corresponding level of expense allowed by the Commission in 1985 and escalated to 1988 in the 1988 benchmark. The entire \$6,099,000 should be allowed. (J.W. Dickey)

FIPUG: No. FPL's claim for excessive steam production costs over the benchmark is not a justification warranting cost recovery. FPL's claim does not meet the objective criteria set out in Mr. Kollen's direct testimony. FPL has delineated eight major categories of fossil production O&M expense which account for its expenses being \$70.7 million over the benchmark. With the exception of the Cutler Plant reactivation and St. John's River Power Park, FPL has not justified these excessive expenses. FPL does not use or qualify a single productivity or improvement program in the fossil production area which results in net cost savings.

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FPL's actual fossil production O&M expense has grown dramatically both in total and on a per KW basis. Further, when FPL's excessive fossil production O&M expense (in all eight categories including outages) is compared to that of the other three Florida investor-owned utilities (which are subject to the same conditions), it becomes clear that FPL's expenses are excessive. The other utilities have been able to control their O&M expense to growth rates less than inflation. FPL has not demonstrated why it cannot do so as well. FPL should not recover expenses in excess of the benchmark, with the exception of the Cutler Plant reactivation and St. John's River Power Park. Thus, \$56.1 million dollars of excess fossil production O&M should be disallowed. (Kollen)

OPC: Agree with Staff.

- 28. ISSUE: [Steam and Other Production Plant, Straight Time wages over CPI \$4,912,779] FPL claims it exceeded the O&M Benchmark in part by \$4,912,779 (\$4,844,000 jurisdictional) for wages which grew faster than the CPI. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL's claim provides an explanation of the increased level of expenses. Recovery of \$4,844,000 should be allowed if the Commission accepts the utility's wage comparison study.

FPL: Yes. All of FPL's wages in excess of CPI are justified and should be allowed as a justification over benchmark. (J.W. Dickey/J.S. Woodall/H.A. Gower)

FIPUG: No. See Issue 18.

OPC: No. This is subsumed within Issue 18.

- 29. ISSUE: [Nuclear Production; Regulatory Required \$96,,779,369 FPL claims it exceeded the benchmark, in part, by \$96,779,369 (\$95,318,000 jurisdictional) for Nuclear Production/Regulatory Required Programs. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

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STAFF: FPL explains that these O&M expenses grew faster than the CPI benchmark, but the company fails to explain what indicator(s) should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than 1987 actual O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures and consequently \$14,262,250 should be disallowed.

FPL: Yes. FPL is entitled to recover these expenditures. Staff has not identified a basis for its proposed disallowance. FPL has reviewed the expenditure increases and determined that the proper amount attributable to this category is \$94,829,000 (\$93,397,082 Jurisdictional). The expenditures in this category were incurred in order to respond to regulatory requirements, increases in which are not related to increases in CPI. All of these expenditures are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: The Public Counsel has separately addressed a number of FPL's claims which are "subparts" to this broader question. The positions are taken on Issues 30-38.

30. ISSUE: [Nuclear Production; Performance Enhancement Program \$23,361,763 FPL claims it exceeded the benchmark, in part, by \$23,361,763 (\$23,009,000 jurisdictional) for the Nuclear Production Performance Enhancement Program. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$5,752,250 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal (IMA) discussed the five root cause problems at Turkey Point, inadequacies in leadership, management attention and follow-up,

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technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$5,752,250 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed the expenditure increases and determined that the proper amount attributable to the Performance Enhancement program is \$21,309,000 (\$20,987,234 Jurisdictional). The Performance Enhancement Program ("PEP") is an improvement program for Turkey Point which FPL was directed by the NRC to implement under Confirmatory Order No. EA-84-55. Implementation began after the projections upon which the Benchmark is based; there are no amounts for the PEP in the Benchmark. All of the PEP expenditures in 1988 are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: FPL's Performance Enhancement Program was mandated by the NRC in response to FPL's mismanagement and failure to heed prior warnings and violations cited by the NRC. This mandate is not a new requirement, but rather was required to correct prior ineffectiveness at Turkey Point. It would not have been required if FPL had effectively managed Turkey Point in the first place. The customers should not be accountable for this management deficiency.

Additionally, before the last rate case FPL should have been aware of the requirement to correct the Turkey Point deficiencies and budgeted that correction process in the benchmark base year. Thus this factor does not provide full justification of its excess above the benchmark. Accordingly, \$5,752,000 or 25% (a conservative assessment), should be removed from O&M expenses. (Larkin)

31. ISSUE: [Nuclear Production; Commitment to Excellence Program; \$3,530,308] FPL claims it exceeded the benchmark, in part, by \$3,530,308 (\$3,477,000 jurisdictional) for the Commitment to Excellence Program. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

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STAFF: \$869,250 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal (IMA) discussed the five root cause problems at Turkey Point, inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$869,250 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed the expenditure increases and determined that the proper amount attributable to the "Commitment to Excellence Program" ("CEP") is \$3,209,000 (\$3,160,544 Jurisdictional). The "Commitment to Excellence Program" is an improvement program for St. Lucie that incorporates the appropriate portions of Turkey Point's Performance Enhancement Program. FPL was directed by the NRC to implement the CEP by Confirmatory Order No. EA-84-55. Implementation began after the projections upon which the Benchmark is based; there are no amounts for the CEP in the Benchmark. All of the CEP expenditures in 1988 are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: The NRC directed FPL as follows: "where appropriate, the results and lessons learned [from the Turkey Point Performance Enhancement Program] will be applied to the St. Lucie Plant." FPL then uses this as justification for the Commitment to Excellence Program (CEP).

The NRC, however, required applying only "results and lessons," rather than the entire program, to St. Lucie. In addition, the TPPEP was prepared in early 1984, so the base year (1985) presumably already includes some expense for this program. Thus, this program does not provide

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complete justification of the excess over the benchmark. Accordingly, \$1,738,000 (50%) should be removed from O&M expenses. (Larkin)

32. ISSUE: [Nuclear Production; Independent Management Appraisal \$1,325,008] FPL claims it exceeded the benchmark, in part, by \$1,325,008 (\$1,305,000 jurisdictional) for the Independent Management Appraisal program. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$326,250 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal (IMA) discussed the five root cause problems at Turkey Point, inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$326,250 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed the expenditure increases and determined that the proper amount attributable to the Independent Management Appraisal is \$1,305,000 (\$1,285,294 jurisdictional). The Independent Management Appraisal ("IMA") was performed at Turkey Point in 1988, pursuant to NRC Confirmatory Order No. 87-85. In 1984, the Performance Enhancement Program (PEP) was initiated at the Turkey Point and the Commitment to Excellence Program (CEP) was initiated at St. Lucie. There is no possible overlap of the IMA and CEP, since the former addressed Turkey Point exclusively and the latter addressed St. Lucie exclusively. The IMA did not duplicate PEP. While PEP comprised a set of discrete programmatic activities to which FPL committed, the IMA was a review of overall management practices, corporate culture and root causes of systematic problems at Turkey Point. Recognizing the need for such review should be

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evidence of prudent management. There are no comparable costs in the Benchmark. The costs are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: The PSC should recognize points about the Independent Management Appraisal (IMA) that was performed for FPL by Enercon, Inc., to address the deficiencies at Turkey Point. First, the appraisal would not have been necessary absent the deficiencies found to be already existing at Turkey Point (e.g., "leadership deficiencies; inefficient management attention and follow-up; technical support lacking proper skills or training;" etc.). Second, the NRC's "appraisal" of the IMA cited specific deficiencies in the IMA (e.g., "the IMA underreported the extent and significance of corporate root cause responsibility").

The IMA therefore should not justify the full amount above the benchmark. O&M expenses should be reduced by \$978,759, or 75% of the benchmark excess. (Larkin)

33. ISSUE: [Nuclear Production; Accreditation of Performance-based Training \$8,354,148] FPL claims it exceeded the benchmark, in part, by \$8,354,148 (\$8,228,000 jurisdictional) for Accreditation of Performance-based Training. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$2,057,000 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal discussed the five root cause problems at Turkey Point: inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$2,057,000 should be disallowed.

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FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditure increases and determined that the proper amount attributable to training accreditation is \$11,172,000 (\$11,003,303 jurisdictional). In 1988 FPL had to make substantial improvements to its training programs at Turkey Point in order to remain in compliance with evolving regulatory requirements. The expenditures in 1988 over the Benchmark were incurred in order to effect these improvements. There is no counterpart to those costs in the Benchmark. The improvements have been effective, and the costs are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: Both the IMA and NRC reports concerning Turkey Point indicate that FPL's training programs have been ineffective, in spite of substantial cost overruns. Cited as some of the shortcomings were poor training material, underqualified and underexperienced instructors, simulator deficiencies and a deficient screening process for non-licensed operators. Expenses for these ineffective training programs should not be accepted as justifying an excess above the benchmark. Thus, 50% of the benchmark excess, or \$4,114,000, should be removed from O&M expenses. (Larkin)

34. ISSUE: [Nuclear Production; Project Management Backfit Support \$5,915,321] FPL claims it exceeded the benchmark, in part, by \$5,915,321 (\$5,826,000 jurisdictional) for Project Management Backfit Support. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$1,456,500 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal discussed the five

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root cause problems at Turkey Point: inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$1,456,500 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditure increases and determined that the proper amount attributable to project management backfit support is \$4,439,000 (\$4,371,971 jurisdictional). FPL has fully justified its Project Management Backfit Support activities. The costs are reasonable and prudent. (J.K. Hays)

FIPUG: See Issue 39.

OPC: FPL's comment on this item provides no justification for the growth in this particular expense. The costs in this category should be reduced in same ratio as the aggregate O&M expenses in excess of the benchmark. O&M expenses should be reduced by \$1,189,227. (Larkin)

35. ISSUE: [Nuclear Production; Total Equipment Data Base \$433,547] FPL claims it exceeded the benchmark, in part, by \$433,547 (\$427,000 jurisdictional) for its Total Equipment Data Base. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$106,750 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal discussed the five root cause problems at Turkey Point: inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$106,750 should be disallowed.

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FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditures and determined that the proper amount attributable to the total equipment data base is \$427,000 (\$420,552 jurisdictional). The Benchmark used in this proceeding for the Nuclear Production Function is based on FPL's 1984 rate of return model projections, the inputs for which were developed in early 1983. At the time those inputs were developed, FPL did not have a clear idea of the timetable for implementing the Total Equipment Data Base, much less accurate estimates of the program development and implementation costs that would be incurred in 1984. Consequently, there were no costs for this program in the 1984 rate of return model projections.

The Total Equipment Data Base has streamlined FPL's preventive maintenance programs and facilitated engineering support activities. This efficiency has, in turn, helped hold down the costs of maintenance and engineering activities at our nuclear plants. This cost avoidance is reflected in the levels of expenditures for such activities incurred in 1988. FPL's expenditures for the Total Equipment Data Base are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: FPL's Total Equipment Database (TED) was implemented in 1984. Most software costs are incurred either prior to implementation or early in the implementation of a program. It is reasonable to assume, then, that most of the costs of this program would have been reflected in 1985, the base year for the benchmark analysis. Thus, \$427,000 does not serve as justification and should be removed from the O&M expenses. (Larkin)

36. ISSUE: [Nuclear Production; Second Ten Year Inspection Program \$3,165,804] FPL claims it exceeded the benchmark, in part, by \$3,165,804 (\$3,118,000 jurisdictional) for its Second Ten Year Inspection Program. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

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STAFF: \$779,500 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal discussed the five root cause problems at Turkey Point: inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$779,500 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditures and determined that the proper amount attributable to the second ten year inspection program is \$3,118,000 (\$3,070,918 jurisdictional). At the beginning of the current (second) ten-year cycle for Turkey Point, FPL identified the need to perform an inspection of portions of the safety-related piping systems. To support this review, an extensive program of drawing updates for the piping systems was going to be necessary. However, there was no need to complete this inspection or the associated engineering work at the beginning of the cycle; the American Society of Mechanical Engineers code required only that it be completed before the end of the cycle. FPL began performing the drawing updates and engineering work for this inspection in 1987-88. None of this work had a counterpart in the Benchmark. These expenditures are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: FPL's effort to justify this amount assumes that this activity was not undertaken in the base year. To the contrary, since Turkey Point experienced a scheduled outage in 1984, it can be safely assumed that a similar activity was undertaken in the benchmark base year. Since FPL's explanation does not fully justify the benchmark excess, 50% of the excess, or \$1,599,000 should be removed from O&M expenses. (Larkin)

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37. ISSUE: [Nuclear Production; Audits \$6,567,164] FPL claims it exceeded the benchmark, in part, by \$6,567,164 (\$6,468,000 jurisdictional) for audits. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$1,617,000 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal discussed the five root cause problems at Turkey Point: inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$1,617,000 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditures and determined that the proper amount attributable to audits is \$5,202,000 (\$5,123,450 jurisdictional). These expenses were necessary and prudently incurred to verify that applicable regulations are adequately implemented and achieving the desired result. They are fully justified. In analyzing the benchmark for these audits, it is inappropriate to apply the CPI growth rate to the number of audits performed. (J.K. Hays)

FIPUG: See Issue 39.

OPC: FPL attempts to justify this excess by citing an increase in audit activities. A comparison of 1988 to the base year, however, shows an increase of only 8.76% in the number of audits. The benchmark escalator allows for an increase of 9.96%. The increased number of audits, therefore, explain none of the excess above the benchmark. The entire benchmark excess of \$6,468,000 should be removed from O&M expenses. (Larkin)

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38. ISSUE: [Nuclear Production; Security Requirements \$5,270,586] FPL claims it exceeded the benchmark, in part, by \$5,270,586 (\$5,191,000 jurisdictional) for security requirements. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$1,297,750 should be disallowed. FPL explains that these O&M expenses grew faster than the CPI benchmark, but the utility does not explain what indicators should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. Staff continues to question the high rate of growth in these expenditures. The NRC evaluation report of the Independent Management Appraisal discussed the five root cause problems at Turkey Point: inadequacies in leadership, management attention and follow-up, technical support, work performance and support, and operations and maintenance. Therefore, Staff believes that \$1,297,750 should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditures and determined that the proper amount attributable to security requirements is \$5,339,000 (\$5,258,381 jurisdictional). Security expenses were prudently incurred to comply with NRC security requirements and are fully justified. The expenditures have resulted in improvements to the security system that have been recognized in recent inspections. (J.K. Hays)

FIPUG: See Issue 39.

OPC: Mr. Larkin's testimony quotes a number of security problems cited by the NRC (e.g., "weakness in this security program have continued to prevail in this SALP period as indicated by the number of violation. The violations continues to be repetitive in nature, involving a failure of the guard force to implement the security program, an inability of security personnel and supervisors to recognize violations and a lack of management oversight.") The ratepayers should not be required to support this ineffective program which is the subject of continuing NRC-identified violations. O&M

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expenses should be reduced by 75% of this excess, or \$3,893,250. (Larkin)

39. ISSUE: Should \$71 million in nuclear production for O&M expense above the O&M benchmark be disallowed? (FIPUG)

STAFF: Staff's position on this issue is identified in Issues 31-38 and 40-45.

FPL: No. All of FPL's 1988 Nuclear Production Function expenditures were necessary and reasonably incurred, and they are fully justified. It would be improper to disallow any expenditures on the basis of an inter-unit comparison as FIPUG apparently recommends. Even if one were to use such a comparison, there are two major flaws in FIPUG's analysis.

First, the chosen units are not necessarily comparable to Turkey Point. While the four screening criteria appear reasonable on their face, the first and fourth in fact result in a misleading comparison. In addition to these formal screening criteria, there are two other factors of which one should take account in comparing the operating performance and costs of other nuclear units to Turkey Point. One should distinguish whether the nuclear units share systems with co-located fossil units and whether the plants are located in a humid, tropical seaside environment.

The second major flaw in the comparison is that the analysis has focused exclusively on 1988. If one were to assume that inter-unit comparisons were relevant, a more useful comparison of the operating costs would be to look at them on a lifetime basis. This would, among other things, tend to compensate for the fact that Turkey Point was operated very inexpensively in its early days and for the fact that it has had to incur high operating expenses in more recent years to address the emerging regulatory requirements. It also would tend to level out the impact of aberrant years. (J.K. Hays)

FIPUG: Yes. FPL's claim for recovery of these expenses does not justify its excessive level of O&M expenses for nuclear production. It does not meet the criteria set out

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in Mr. Kollen's testimony. A significant portion of the excessive O&M expense is due to O&M expense at Turkey Point. Since 1985, Turkey Point O&M has increased by 111.9% on a cumulative basis. The increase in O&M at Turkey Point is out of line with both growth in the CPI and growth in O&M at FPL's other nuclear plant, St. Lucie. The growth in O&M at Turkey Point is also out of line with the O&M levels of other similar nuclear plants on both a per kW and per kWh basis. Based on similar units, Turkey Point's O&M was excessive by \$71 million to \$80.8 million. These O&M increases are not justified by improved reliability and availability because Turkey Point's performance has declined since 1985. At least \$71 million of FPL's excessive O&M attributable to Turkey Point should be disallowed. (Kollen)

OPC: The Citizen's position is broken down into several specific items identified in Issues 30-38.

40. ISSUE: [Nuclear Production; Maintenance + Scheduled Outages \$51,979,896] FPL claims that it exceeded the benchmark, in part, by \$51,979,896 (\$51,195,000 jurisdictional) for Nuclear Production/Scheduled Outages. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL explains that these O&M expenses grew faster than the CPI benchmark, but the Company does not explain what indicator(s) should be used. Actual 1988 total Nuclear Production O&M expenses are 11.1% higher than actual 1987 O&M expenditures and 256% higher than the 1988 benchmark level. FPL identified and explained the programs comprising the \$34,214,000 benchmark variance for Maintenance and \$16,981,000 benchmark variance for Scheduled Outages. Staff continues to question the high rate of growth in these expenditures and, relying upon the Independent Management Appraisal of root cause assessments, Staff believes that \$8,553,500 of Maintenance O&M expenses should be disallowed.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed its expenditures and determined that the proper amount attributable to maintenance and scheduled outages is \$54,213,000

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(\$53,394,384 jurisdictional). None of FPL's 1988 corrective maintenance work was more complicated or time-consuming than would have been the case were it done in earlier years. All of FPL's 1988 Maintenance and Scheduled Outage expenditures are reasonable and prudent and are fully justified. (J.K. Hays.)

FIPUG: See Issue 39.

OPC: In its effort to justify the benchmark excess of \$34 million for maintenance expense, FPL divided the variance into the three categories of corrective, periodic and predictive maintenance. Until recently, FPL's preventive maintenance at Turkey Point had been deficient or deferred, resulting in problems that would not otherwise be taking place. Because a major portion of the corrective maintenance expenses are attributable to deferral or omission of routine maintenance in prior year and was therefore avoidable, 75% or \$9 million of the corrective maintenance should be removed from O&M expenses. (Larkin)

41. ISSUE: [Nuclear Production; Improvements \$15,672,657] FPL claims that it exceeded the benchmark in part by (\$15,436,000 jurisdictional) for Nuclear Production Improvements. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: \$2,511,000 should be disallowed. FPL claims that all of these costs were reasonable and necessary to the safe, reliable operation of the utility's nuclear units. FPL did not completely justify why these expenses grew faster than the CPI benchmark, or identify what cost escalation factor should be used. Staff believes that \$2,511,000 should be disallowed.

FPL: Yes. FPL is entitled to recover all of these expenses. Staff has not identified the basis for its proposed disallowances. FPL has reviewed the expenditure increases and determined that the proper amount attributable to this category is \$13,866,000 (\$13,676,321 jurisdictional). These expenditures reflect work done to help achieve the reliable, continuous operation of FPL's nuclear plants between their scheduled refueling outages.

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They are not directly driven by regulatory requirements, although the work is responsive to the NRC's emerging emphasis on performance-based regulation. Increases in these expenditures are not driven by, and therefore do not track, increases in CPI. FPL's expenditures for improvements are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: The Public Counsel has addressed this aggregate question the position taken on two separate issues, Nos. 42 and 43.

42. ISSUE: [Nuclear Production; Inspection and Examination \$305,615] FPL claims that it exceeded the benchmark in part by \$ (\$301,000 jurisdictional) for Inspection and Examination. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL claims that all of these costs were reasonable and necessary to the safe, reliable operation of the utility's nuclear units. While FPL did not completely justify why these expenses grew faster than the CPI benchmark, or identify what cost escalation factor should be used, Staff believes that the utility should recover the \$301,000 expense.

FPL: Yes. FPL has reviewed its expenditures and determined that the proper amount attributable to inspections and examinations under the "improvements" category is \$216,000 (\$212,738 jurisdictional). The inspections and examinations under the "Improvements" category represent additional activities beyond regulatory and code requirements that FPL undertook in order to preserve the integrity of important plant equipment. The small amount expended on these inspections and examinations is well justified by the heightened confidence it gives that the equipment will not degrade to the point that reliability is affected or expensive replacement or repair is required. FPL began performing these enhanced inspections and examinations after 1984, and there is no counterpart in the Benchmark. FPL's expenditures for Inspection and Examinations are

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reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: Besides the "inspections" referred to in this issue, FPL has identified another benchmark excess of \$6,272,000 for "inspections and examination", which is explained essentially the same as the \$301,000 benchmark excess in this issue. Because the \$6,272,000 excess is not being challenged, this duplicative explanation should not be accepted and the \$301,000 benchmark excess should be removed. (Larkin)

- 43. ISSUE: [Nuclear Production; Real Time Engineering Support \$15,367,042] FPL claims that it exceeded the benchmark in part by \$ (\$15,135,000 jurisdictional) for Real Time Engineering Support. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: This is a sub-issue of Issue 41. Therefore Staff's position on this issue is also reflected in Issue 41. \$2,511,000 should be disallowed. FPL claims that all of these costs were reasonable and necessary to the safe, reliable operation of the utility's nuclear units. FPL did not completely justify why these expenses grew faster than the CPI benchmark, or identify what cost escalation factor should be used. Staff believes that \$2,511,000 should be disallowed as follows: Containment Tendon Surveillance \$76,000, Nuclear Fuel Services \$461,000, Spent Fuel Pool Air Inlet Damper Replacement \$185,000, Engineering Tasks \$503,000, Distribution Materials STET Supplies \$844,500 and Maintenance \$441,500.

FPL: Yes. Staff has not identified the basis for their proposed disallowance. FPL has reviewed the expenditure increases and determined that the proper amount attributable to Real Time Engineering Support is \$13,670,000 (\$13,463,583 jurisdictional). In analyzing the benchmark for real-time engineering support, it is inappropriate to apply the CPI growth rate to the level of non-conformance reports reviewed. These expenses were necessary to improve plant reliability. They are

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reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: Of the \$15,135,000 total excess in the real-time emergency support category, FPL explains that \$2,158,000 excess is attributable to activities required for the disposition of non-conformances found by the quality control inspections. The non-conformance reports for 1988 had increased by 43% over 1984, and the CPI increased by 13% over the same time. The benchmark had therefore accounted for 13% of the increased number of the 43% increase in non-conformance and has separately allowed for increases in engineering salaries. Of the excess of \$2,158,000, the O&M expenses should be reduced by \$652,420. (Larkin)

44. ISSUE: [Nuclear Production; Administration \$8,118,591] FPL claims that it exceeded the benchmark, in part, by \$8,118,591 (\$7,996,000 jurisdictional) for Administrative expenses. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL claims that the reclassified payroll and administrative support costs were necessary and properly incurred and should be recovered. The Company did not completely justify why these expenses grew faster than the CPI benchmark or identify what indicators should be used to escalate these costs. Staff believes that \$1,000,000 should be disallowed as not justified in the administrative support expenses.

FPL: Yes. FPL is entitled to recover all of these expenditures. Staff has not identified the basis for its proposed disallowances. The expenditures in the Operations category total \$8,827,000 (\$8,693,712 Jurisdictional). In addition to the Administration subcategory included in FPL's response to Staff Interrogatory No. 21, FPL has added an additional subcategory in the Operations category, entitled "Plant Operations Support" to better organize and analyze the expense increases in the Nuclear Production Function. The addition of this new subcategory has resulted in the

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change of the dollar amount for the Operations category from \$5,748,000 (reported in FPL's response to Interrogatory No. 21) to \$8,827,000 (\$8,693,712 Jurisdictional). FPL's expenditures in the Operations category are reasonable and prudent and are fully justified. (J.K. Hays)

FIPUG: See Issue 39.

OPC: Agree with Staff.

45. ISSUE: [Nuclear Production, Other \$967,611] FPL claims that it exceeded the benchmark, in part, by \$967,611 (\$953,000 jurisdictional) for Nuclear Production, Other. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL reclassified and included the previously reported "other" costs in Issue 44. Therefore, Staff does not believe a disallowance should be made and agrees with the Company's reclassification for the purpose of identifying these costs.

FPL: Yes. Agree with Staff. (J.K. Hays)

FIPUG: See Issue 39.

OPC: No contention.

46. ISSUE: [Other Power Supply \$2,183,651] FPL claims it exceeded the O&M benchmark, in part, by \$2,183,651 (\$2,145,000 jurisdictional) for Other Power Supply to accommodate increased expenses in this department. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: Staff believes that \$164,000 of Office Computer expenses should be disallowed because they have not been adequately justified. Staff also believes that recovery of \$537,000 for wages above CPI should be allowed if the Commission accepts the wage comparison study submitted as justification for this expense.

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FPL: Yes. All of the FPL's expenses in the Other Power Supply over the 1988 benchmark have been justified. Incurrence of these expenses allowed FPL to avoid between \$39 and \$44 million in fuel costs in 1988. Staff's proposed disallowances of \$364,000 for System Operation payroll (\$201,000) and general office computer expenses (\$163,000) are improper. The personnel at issue, system operators and generation coordinator, are essential to the economic dispatch of FPL's system. The general office computer expenses are reclassified A&G costs similar to those Staff agrees should be allowed in the Steam Function. These expenses are completely justified and should be allowed. (J.W. Dickey)

FIPUG: FPL's claim is not a justification and cost recovery should not be permitted nor does FPL's claim meet the criteria set out in Mr. Kollen's testimony.

OPC: Agree with Staff.

47. ISSUE: [Transmission \$7,679,935] FPL claims that it exceeded the benchmark, in part, by \$7,679,935 (\$7,544,000 jurisdictional) for the Transmission function. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL does not completely justify why these expenses grew faster than CPI and customer growth or identify what cost escalation factor should be used. Actual 1988 O&M expenditures are 20.8% higher than the 1988 benchmark. Staff believes that \$795,000 should be disallowed as follows: Substation Maintenance \$609,000 and Transmission Line Patrol \$186,000.

FPL: Consistent with Mr. Davis' O&M Benchmark (restated for A&G Reclassification) FPL exceeded its 1988 O&M Benchmark by \$4,449,000. FPL has completely explained and justified all of the Transmission expenses over either calculation of the O&M Benchmark. Staff's proposed disallowances are not specified and cannot be readily addressed without some refinement of Staff's position. (J.T. Petillo)

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FIPUG: No. FPL's claim is not a justification warranting cost recovery nor does FPL's claim meet the criteria set out in Mr. Kollen's testimony. See Issue 18 in regard to why FPL has not justified its excess straight time wages over CPI. (Kollen)

OPC: Agree with Staff.

48. ISSUE: [Distribution \$9,724,504] FPL claims that it exceeded the benchmark in part by \$9,724,504 (\$9,707,000) for Distribution expenses. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: FPL does not completely justify why these expenses grew faster than CPI and customer growth or identify what cost escalation indicator should be used. Actual 1988 O&M expenses are 4.7% higher than the 1988 benchmark. Staff believes that \$1,103,322 should be disallowed as follows: Facilities Survey \$481,666, Facilities Ground \$260,000, Padmount Transformer Inspection \$165,333 and Defective Meters \$196,333.

FPL: Consistent with Mr. Davis's O&M Benchmark (restated for A&G Reclassification) FPL exceeded its 1988 O&M Benchmark by \$525,000 not by \$9,717,000. FPL has completed explained and justified all of the Distribution expenses over the O&M Benchmark. Staff's proposed disallowances are not specified and cannot be readily addressed without some refinement of Staff's position. (J.T. Petillo)

FIPUG: No. FPL's claim is not a justification warranting cost recovery nor does FPL's claim meet the criteria set out in Mr. Kollen's testimony. See Issue 18 in regard to why FPL has not justified its excess straight time wages over CPI. (Kollen)

OPC: Agree with Staff.

49. ISSUE: [Customer Accounts \$1,029,000] FPL claims that it exceeded the O&M benchmark by \$1,029,000 (\$1,028,897 jurisdictional) because increases to straight time wages

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were higher than the growth in CPI. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: Recovery of the \$1,029,000 increase in straight time wages should be allowed if the Commission accepts the utility's wage comparison study. However, Customer Accounts should be reduced \$5,900,081 under specific issue (Issue 17) for uncollectible accounts expense. No further adjustments are necessary.

FPL: Yes. Consistent with Mr. Davis' O&M Benchmark (restated for A&G Reclassification) FPL did not exceed its 1988 O&M Benchmark in the Customer Accounts function. FPL was below the O&M Benchmark in Customer Accounts function by \$556,056 (\$556,000 Jurisdictional), even with the entire \$17,408,081 provision for uncollectible accounts. FPL has completely explained and justified all the Customer Accounts expenses over the 1988 benchmark. (J.T. Petillo/K.M. Davis/J.S. Woodall/H.A. Gower)

FIPUG: No. See Issues 16 and 18.

OPC: Specific adjustments have been made in straight time wages and uncollectable accounts. The Citizens are not recommending any further removals.

50. ISSUE: [Sales \$344,000] FPL claims that it exceeded the O&M benchmark by \$344,000 (\$344,000 jurisdictional) because the Sales function (with 1988 expenses of \$344,000) did not previously exist in 1985. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: The Commission should disallow \$344,000 in sales expenses since all expenses in this function are primarily related to the promotion of night lighting programs. Even though these programs promote off-peak usage, they encourage, and in fact use cash incentives to increase, the use of electricity, which is contrary to the provisions of the Florida Energy Efficiency and Conservation Act (FEECA).

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FPL: Yes. FPL has completely justified all of its 1988 Sales expenses. These expenses not only meet articulated customer needs but also are a cost effective means of providing benefits of all FPL customers. The off-peak sales programs reflected in the Sales expenses are not inconsistent with FEECA, but even if they were, consistency with FEECA is not determinative of cost recovery through base rates. (J.T. Petillo)

FIPUG: No position.

OPC: Section 366.82, Florida Statutes, require in-part, the Commission to adopt the goal of "reduc[ing] and control[ing] the growth rates of electric consumption." It would appear that the expenses associated with security lighting are contrary to the language of FEECA. The Citizens therefore agree with Staff on this issue.

51. ISSUE: [Customer Service \$564,000] FPL claims that it exceeded the O&M benchmark by \$564,000 (\$564,000 jurisdictional) because increases in straight time wages were higher than the growth in CPI. Should this amount be recognized in the O&M expenses used in calculating FPL's 1988 tax savings refund?

STAFF: An adjustment should be made to disallow promotional activities related to increasing on-peak and off-peak sales which Staff believes are contrary to the provisions of the Florida Energy Efficiency and Conservation Act (FEECA). Staff's initial position is to reduce expenses by \$2,451,088, which includes the specific adjustment for advertising discussed in Issue 5.

FPL: Consistent with Mr. Davis' O&M Benchmark calculations (restated for A&G Reclassification) FPL exceeded the Customer Service Benchmark by \$405,000, not \$564,000. FPL has completely explained and justified Customer Service expenses over the 1988 benchmark. (J.T. Petillo/J.S. Woodall/H.A. Gower)

FIPUG: No position.

OPC: Salaries are addressed in a separate issue (No. 18).

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52. ISSUE: [Administrative & General (\$27,420,000)] FPL claims to be under the O&M benchmark by \$27,420,000. Is it therefore appropriate to disallow any A&G expenses?

STAFF: Yes. A&G expenses should be reduced by \$14,581,000 under specific issues 4, 6, 7, 8, 10, 12-15, and 17.

FPL: No. The costs incurred in the Administrative and General Area were reasonable and prudent. (J.S. Woodall)

FIPUG: Yes, an adjustment should be made to disallow specific A&G expenses. The Commission should exclude the pension expense from the 1985 benchmark base prior to increasing the base to the 1988 benchmark level to recognize a zero pension expense in 1988. Additionally, see Issues 7-15, 17. (Kollen)

OPC: The individual components of A&G expenses are addressed in a separate issue.

53. ISSUE: Has FPL properly treated all of the expenses associated with its lobbying activities?

STAFF: Any lobbying expenses identified as being included in operating expenses should be disallowed.

FPL: Yes. This is a new issue. FPL has properly accounted for its lobbying activities as a below the line expenditure. (W.H. Brunetti/K.M. Davis)

FIPUG: No position at this time.

OPC: The Citizens do not have enough information to take a position on this issue.

54. ISSUE: Should credits received under FPL's Commercial/Industrial Load Control Project Rate Schedule (C/ILCP) be imputed for the load that a C/ILCP customer transferred to the Interim Interruptible Service Rate Schedule (IST-1) prior to the end of the first twelve months on the C/ILCP rate in the calculation of the 1988 additional refund?

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STAFF: Yes. The intent of Order No. 20235 was that credits received by program participants would be repaid to FPL if the participating customer transferred to IST-1 prior to the end of the first twelve-month period of participation. The terms and conditions of the C/ILCP rate schedule and related agreement state that "customers whose participation is terminated before the end of any twelve-month period shall refund all credits". FPL allowed a customer to transfer most of its load from the C/ILCP to the IST-1 rate schedule prior to the end of the twelve-month period, and without repayment of C/ILCP credits previously received. This not only violates the intent of Order No. 20235, but also is unduly discriminatory to C/ILCP customers who would be required to repay program credits if they transferred their entire loads to IST-1.

FPL: FPL does not contest this adjustment.

FIPUG: No position.

OPC: No position.

55. ISSUE: What is FPL's achieved net operating income for 1988 resulting from the resolution of the preceding issues?

STAFF: This calculation is mechanical in nature and dependent upon a resolution of the preceding issues.

FPL: FPL's achieved Net Operating Income (NOI) for 1988 is \$678,767,405. (K.M. Davis)

FIPUG: FPL's achieved net operating income is understated by \$190,494,000. (Kollen)

OPC: \$749,298,620.

56. ISSUE: What is the total 1988 tax savings refund for FPL resulting from the resolution of the preceding issues?

STAFF: This calculation is mechanical in nature and dependent upon a resolution of the preceding issues.

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FPL: The total 1988 Tax Savings Refund for FPL is \$39,343,364. (See FPL's position on Issue Nos. 4, 6, 11, and 54.) (K.M. Davis)

FIPUG: The total additional tax savings refund is \$131,055,000 plus interest.

OPC: The total additional refund is \$107,814,513 plus interest.

57. ISSUE: How should any additional refund be implemented?

STAFF: The additional tax refund should be refunded to customers on an equal cents per KWH basis and identified as such on the bill. If the additional refund is over \$68.6 million (1.5 percent of FPL's 1988 total operating revenues), it should be refunded over a six-month period to reflect more accurately how the revenues were collected. A six-month refund should be implemented beginning with the September billing cycle.

FPL: Any additional refund for 1988 should be carried forward with interest and included with the 1989 Tax Savings refund amount. Implementation of the resulting refund to customers should be determined in the 1989 Tax Savings docket. (K.M. Davis)

FIPUG: The additional tax refund should be refunded to customers on an equal cents per KWH basis with interest.

OPC: As a one-time credit to customers bills, specifically delineated as such.

58. ISSUE: Would it be appropriate for the Commission to initiate a management audit of FPL to appropriately evaluate efficiencies and the opportunities for cost control and possible savings?

STAFF: No position at this time.

FPL: No. (J.S. Woodall)

FIPUG: Yes. The Commission has before it in this and earlier dockets substantial evidence that FPL's O&M

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expense growth has substantially exceeded the benchmark for the last decade. A management audit designed to focus on achieving efficiencies and savings in O&M expenses is warranted and needed.

OPC: Agree with FIPUG.

STIPULATED ISSUES

Issues 6 and 11 have been stipulated by the parties.

MOTIONS

FIPUG'S MOTION TO STRIKE PORTIONS OF TESTIMONY: On April 16, 1990, FIPUG filed a Motion to Strike Portions of Testimony of W.H. Brunetti, alleging that certain portions of such testimony constitutes impermissible legal opinion. At the prehearing, the parties presented oral argument regarding FIPUG's motion, after which the motion was granted as follows: on page 6 of the prefiled testimony of W.H. Brunetti, line 16 (beginning with the phrase "In fact") through line 18 are hereby stricken and on page 34, line 24, the last three words are hereby stricken. On page 35, lines 1-7 are also stricken.

FPL'S MOTION FOR OFFICIAL RECOGNITION: On April 27, 1990, FPL filed a Motion for Official Recognition of certain transcript excerpts from the rulemaking hearing in Docket No. 800719-PU (Disposition of Federal Tax Savings That Will Be Realized From Proposed Legislation). Because it was filed subsequent to the Prehearing Conference in this docket, it will remain pending until hearing.

OTHER MATTERS

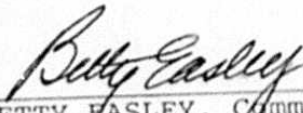
FIPUG may file, with the Commission's permission, supplemental direct testimony of Mr. Kollen. This testimony will relate to documents which FPL claims to be confidential and which were provided to FIPUG after the due date for direct testimony pursuant to a Protective Agreement.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that these proceedings shall be governed by this order unless modified by the Commission.

By ORDER of Commissioner Betty Easley, Prehearing Officer, this 7th day of MAY, 1990.


BETTY EASLEY, Commissioner
and Prehearing Officer

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