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Matthew M. Childs, P.A.

January 19, 1999

Blanca S. Bayó, Director  
Division of Records and Reporting  
Florida Public Service Commission  
4750 Esplanade Way, Room 110  
Tallahassee, FL 32399

RE: DOCKET NO. 981390-EI

Dear Ms. Bayó:

Florida Power & Light Company filed a Motion to Dismiss on January 15, 1999. Order No. PSC-98-1748-FOF-EI was inadvertently omitted as the attachment to FPL's Motion to Dismiss.

Very truly yours,

*Matthew M. Childs*  
Matthew M. Childs, P.A.

- ACK
- AFA 1 *Heater* MMC:ml  
Enclosure
- APP      cc: All Parties of Record
- CAF
- CMU
- CTR
- EAG 1
- LEG 1
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*[Signature]*  
FPSC BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the equity ratio and return on equity of Florida Power & Light Company.

DOCKET NO. 961390-EI  
ORDER NO. PSC-98-1748-FOF-EI  
ISSUED: December 22, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING PROPOSAL CONCERNING RETURN ON EQUITY  
AND EQUITY RATIO

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

At our regularly scheduled agenda conference, held November 3, 1998, this Commission heard a recommendation from our staff which suggested that Florida Power & Light Company's (FPL) equity ratio may be excessive and that FPL's currently authorized return on equity (ROE) may exceed a reasonable return required by investors. Our staff recommended conducting a hearing to determine the appropriate equity ratio and ROE for FPL. We deferred our vote on this recommendation until our December 1, 1998, agenda conference, to provide time for our staff, FPL, the Office of Public Counsel (OPC), and interested persons to negotiate a possible settlement of the issues raised.

As a result of these negotiations, FPL presented a written, proposed settlement at our December 1, 1998, agenda conference. FPL's proposal is attached hereto as Attachment A. In summary, FPL's proposed settlement provides for the following:

DOCUMENT NUMBER-DATE

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1. The amortization plan outlined in Order No. PSC-98-0027-FOF-EI shall be extended effective November 1, 1998, through December 31, 2000, with the following additional items to be amortized:
  - a. Regulatory assets, or their equivalent, established pursuant to future Commission order and directed by this Commission to be subject to the amortization plan. This Commission may extend the amortization plan as part of the approval process for creating and amortizing additional regulatory assets;
  - b. The portion of unused nuclear fuel remaining in nuclear plants upon decommissioning, which may be properly attributable to customers prior to the end of 1999 and which, together with the amount, will be determined in the annual fuel docket;
  - c. Loss on reacquired debt incurred before December 1, 1998;
  - d. A fixed amount of \$40 million annually through December 31, 2000, in addition to the expense recorded under the current amortization plan.
2. If, prior to December 31, 2000, no items remain to be amortized under the amortization plan outlined in Order No. PSC-98-0027-FOF-EI, as extended and modified by this proposal, FPL will record amounts based on the formula in the amortization plan in a regulatory liability account subject to this Commission's final determination concerning the use of those funds.
3. Effective January 1, 1999, FPL will lower its authorized ROE midpoint from 12.0% to 11.2%, with an authorized range of 10.2% to 12.2%, for all regulatory purposes on a prospective basis. FPL will cap its adjusted equity ratio at 55.83% until December 31, 2000, as included in FPL's projected 1998 Rate of Return Report for surveillance purposes.
4. FPL will not dispute our staff's recommendation on depreciation dated November 19, 1998, in Docket No. 971660-EI.

5. FPL will use the most cost effective financing available to fund its Capital Expansion Program.

At the December 1, 1998, agenda conference, FPL clarified certain aspects of its proposed settlement. As to the amortization of unused nuclear fuel costs (paragraph 1.b., above), FPL clarified that its proposal contemplates a determination by this Commission in our annual fuel cost recovery docket as to whether such costs exist and, if so, whether they should be amortized. As to the fixed, annual amortization of \$140 million (paragraph 1.d., above), FPL clarified that this amount is guaranteed regardless of FPL's revenues. FPL further clarified that its proposal is not intended to preclude this Commission from ordering a cash refund of any amounts recorded as a regulatory liability pursuant to paragraph 2 of the proposal.

With these clarifications, we find that FPL's proposed settlement provides a reasonable resolution of the issues raised in this docket. We believe that FPL's proposal will create substantial benefits for its customers and represents a vast improvement over the status quo. For these reasons, we find that FPL's proposed settlement should be approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement proposed by Florida Power & Light Company in this docket, attached hereto as Attachment A and incorporated herein by reference, is hereby approved with the clarifications stated in the body of this Order.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

ORDER NO. PSC-98-1748-FOF-EI  
DOCKET NO. 981390-EI  
PAGE 4

By ORDER of the Florida Public Service Commission this 22nd  
day of December, 1998.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

WCK/RVE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

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

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

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 12, 1999.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

ORDER NO. PSC-98-1748-FOF-EI  
DOCKET NO. 981390-EI  
PAGE 5

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

December 1, 1998

FPL Proposal

1. Effective November 1, 1998, extend the amortization plan as outlined in Order No. PSC-98-0027-FOF-EI for an additional year, through December 31, 2000, with the following additional items to be amortized:

Regulatory assets, or their equivalent, established pursuant to future Commission orders and directed to become subject to the amortization plan. The amortization plan may be extended by the Commission as part of the approval process for creating and amortizing additional regulatory assets.

The portion of unused nuclear fuel remaining in nuclear plants upon decommissioning, which may be properly attributable to customers prior to the end of 1999 and which, together with the amount, will be determined in the annual fuel docket.

Loss on reacquired debt incurred before December 1, 1998.

FPL will amortize \$140 million per year through December 31, 2000 as a fixed amount in addition to the expense recorded under the current plan which is determined by taking 100% of the difference between FPL's forecasted 1996 Most Likely Revenue equal to \$3,224.1 million and Low Band Revenue equal to \$3,140.9 million and at least 50% of the base rate revenues produced by retail sales above FPL's Most Likely sales forecast for 1996, as filed in Docket No. 950359-EI.

2. In the event that there are no longer items to be amortized under the plan prior to December 31, 2000, FPL will agree to record amounts based on the formula in the plan in a regulatory liability account subject to the Commission's final determination for the use of those funds.
3. Effective January 1, 1999, FPL will agree to lower its authorized return on equity midpoint from 12.0% to 11.20% (range: 10.20% - 12.20%) for all regulatory purposes on a prospective basis. FPL will agree to cap its adjusted equity ratio at 55.83% until December 31, 2000 as included in FPL's projected 1998 Rate of Return Report for surveillance purposes. The adjusted equity ratio equals common equity divided by the sum of common equity, preferred equity, debt and off balance sheet obligations. The amount used for off balance sheet obligations will be calculated per the Standard & Poor's methodology as used in their August 1998 credit report.
4. FPL will agree with Staff's Recommendation on depreciation dated November 19, 1998 in Docket No. 971660-EI.
5. FPL will agree to use the most cost effective financing available to fund its Capital Expansion Program.

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 981390-EI**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Attachment to Motion to Dismiss has been furnished by Hand Delivery (\*), or U.S. Mail this 19th day of January, 1999, to the following:

Robert V. Elias, Esq.\*  
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Matthew M. Childs, P.A.