

MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

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December 17, 2008

**BY HAND DELIVERY**

Ms. Ann Cole, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

RECEIVED-FPSC  
08 DEC 17 PM 2:44  
COMMISSION  
CLERK

Re: Docket No. 080366-GU

Dear Ms. Bayó:

Enclosed for filing on behalf of Florida Public Utilities Company are the following documents:

1. An original and twenty copies of Florida Public Utilities Company's Petition for Interim Rate Relief; and
2. An original and twenty copies of Florida Public Utilities Company's Petition for Rate Increase, Testimony, and Minimum Filing Requirements.

A copy of each Petition, Testimony and Minimum Filing Requirements have been provided to the Office of Public Counsel. Additionally, a copy of the Petition has been served on the Chief Executive Officer of counties and municipalities within the service area of the Company. Attached is a certificate of service listing the officials to whom the Petition was provided.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,

Norman H. Horton, Jr.

COM 5+1  
 ECR  
 GCL 1  
 OPC 1  
 RCP 1  
 SSC 2  
 SGA  
 ADM NHH/amb  
 Enclosures  
 CLK cc: Mr. John T. English

DOCUMENT NUMBER-DATE  
 11658 DEC 17 08  
 FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by )  
Florida Public Utilities Company's ) Docket No. 080366-GU  
Gas Division ) Date Filed: December 17, 2008  
\_\_\_\_\_)

**PETITION FOR INTERIM RATE RELIEF**

Florida Public Utilities Company ("Petitioner" or the "Company"), pursuant to Section 366.071, Florida Statutes, herewith files its Petition for Interim Rate Relief requesting an interim increase in its rates to produce additional revenue on an annual basis. In support thereof Petitioner states:

1. The name and address of the Petitioner is:

Florida Public Utilities Company  
Post Office Box 3395  
West Palm Beach, Florida 33402-3395

2. The names and addresses of the persons authorized to receive notices and communications with respect to this petition are:

Norman H. Horton, Jr. Messer, Caparello & Self, P. A. 2618 Centennial Place Post Office Box 15579 Tallahassee, FL 32317-5579	Ms. Cheryl Martin Controller Florida Public Utilities Company P.O. Box 3395 West Palm Beach, Florida 33402-3395
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3. Simultaneous with this filing, the Company has filed with the Florida Public Service Commission ("Commission") a Petition for Rate Relief in the amount of \$9,917,690 pursuant to Section 366.06, Florida Statutes. The Petition for Rate Relief is accompanied by prepared testimony of witnesses supporting the permanent and interim request, new rate schedules adjusting the rates and charges of the Company to provide the additional annual gross

revenues in the amount of \$9,917,690, as well as by the Minimum Filing Requirements (“MFRs”) with data supporting both the permanent and interim relief with data required by Rules 25-7.039 and 25-7.040, Florida Administrative Code. The Petition for permanent rate relief uses the projected 12-month period ending December 31, 2009 as the test year and the request for interim relief utilizes the historic 12-month period ending December 31, 2007 to calculate the revenue deficiency.

4. In its last rate proceeding, the Company used a test year ending December 31, 2004 as the test year for rate relief. By Order No. PSC-04-1110-PAA-GU, issued November 8, 2004, the Commission authorized an increase in rates and charges by \$5,865,903 and set the midpoint of the rate of return to be earned by the Company upon its projected rate base at 7.62% using a return on equity with a midpoint of 11.25% and a range of 10.25% to 12.25%.

5. The Company is now and has been earning below the range of reasonableness as determined in the last rate proceeding. For the interim test year ended December 31, 2007, the achieved rate of return was 6.64%. This was calculated by applying appropriate adjustments consistent with those which were used in the most recent rate case. To afford the Company an opportunity to earn the minimum of the range of the last authorized rate of return on equity of 10.25% as set by the Commission, rates should be increased by \$984,054 on an annual basis. A summary of this calculation is attached hereto as Exhibit “A” and by this reference made a part hereof.

6. The Company has demonstrated in its Petition for Rate Relief that it is entitled to the relief requested therein but should the Commission not consent to the increase as requested then it is submitted that there has been a demonstration through the attached summary, testimony and data submitted as required by Rule 25-7.040, Florida Administrative Code, that it is entitled

to interim rate relief pursuant top Section 366.071, Florida Statutes. Accordingly, the Commission should authorize the Company to increase its rates by \$984,054 to afford it the opportunity to earn within the range as last authorized by the Commission. Authorization for such increases is required within 60 days of the filing of this petition, and the Company requests an early review and disposition of this request.

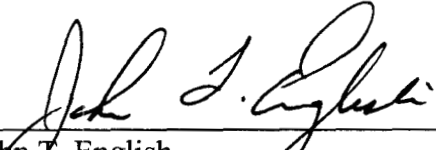
7. Section 366.071, Florida Statutes, requires that the difference between the interim rates and the previously authorized rates be collected under bond or corporate undertaking subject to refund with interest at a rate determined in accordance with Rule 25-7.040(3), Florida Administrative Code. The Company submits that it has the requisite financial, capital and managerial assets necessary to utilize the corporate undertaking and thus requests that the difference be collected subject to corporate undertaking.

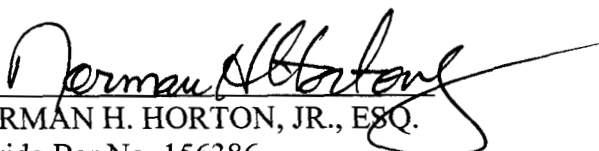
WHEREFORE, Florida Public Utilities Company requests that, pending final action by the Commission on the Petition for permanent rate relief, the Commission will:

- a. Authorize the Company to place in effect on an interim basis an increase in rates sufficient to earn a rate of return of 7.66% which is the minimum of the range of rate of return calculated in accordance with paragraph (5)(b)2 of Section 366.071, Florida Statutes;
- b. Authorize the Company to collect an additional \$984,054 on an interim basis; and
- c. Authorize the difference between the interim rates and the previously authorized rates be collected under corporate undertaking subject to refund with interest.

Respectfully submitted,

FLORIDA PUBLIC UTILITIES COMPANY

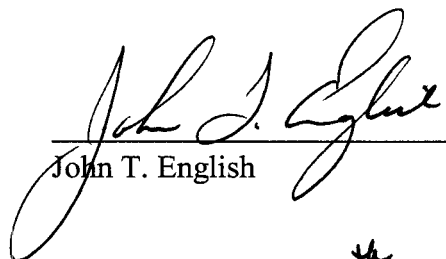
By:   
John T. English  
President and Chief Executive Officer

  
NORMAN H. HORTON, JR., ESQ.  
Florida Bar No. 156386  
MESSER, CAPARELLO & SELF, P.A.  
2618 Centennial Place  
Post Office Box 15579  
Tallahassee, FL 32317-5579  
(850) 222-0720

Attorneys for Florida Public Utilities Company

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared John T. English, who, being first duly sworn, says that he is the President and Chief Executive Officer of Florida Public Utilities Company, is fully qualified and acting in that capacity, and is authorized to execute the foregoing petition for said company and to make this oath thereto; that the matters and things stated in said petition are true to the best of his knowledge and belief, and that insofar as they are derived from or depend on the knowledge of others, he verily believes them to be true.

  
\_\_\_\_\_  
John T. English

Sworn to and subscribed before me, the undersigned authority, this 12<sup>th</sup> day of December, 2008 by John T. English, President and Chief Executive Officer of Florida Public Utilities, who is personally known to me.

  
\_\_\_\_\_  
Notary Public, State of Florida at Large  
My Commission Expires:



Calculation of Interim Base Rate Relief

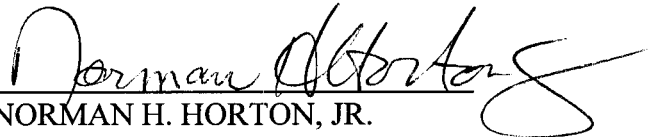
<u>DESCRIPTION</u>	2007 <u>Adjusted</u>
Adjusted Rate Base	\$ 59,518,973
Requested Rate of Return	<u>7.66%</u>
Net Operating Income Required	\$ 4,558,800
Less: Adjusted Net Operating Income	\$ <u>3,950,447</u>
Net Operating Income Deficiency	\$ 608,353
Expansion Factor	<u>1.61757</u>
Revenue Deficiency	\$ <u><u>984,054</u></u>

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing have been served by Hand Delivery (\*) and/or U. S. Mail this 17<sup>th</sup> day of December, 2008 upon the following:

Jennifer Brubaker, Esq.\*  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

J. R. Kelley\*  
Public Counsel  
c/o The Florida Legislature  
111 West Madison St., Room 812  
Tallahassee, FL 32399-1400

  
NORMAN H. HORTON, JR.