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 COMMISSION CLERK

**- VIA HAND DELIVERY -**

The Honorable Matthew M. Carter, II  
 Florida Public Service Commission  
 2540 Shumard Oak Boulevard  
 Tallahassee, Florida 32399

**Re: Docket No. 080677-EI**

Dear Chairman Carter:

The purpose of this letter is to respond to the Office of Public Counsel's ("OPC") request that you deny Florida Power & Light Company's ("FPL") proposal to use a 2010 projected test year and approve the use of a 2009 test year to establish rates and to affirmatively request that you render an interim decision approving 2010 as the appropriate test year to establish rates for FPL in the upcoming rate case.

On November 17, 2008, FPL wrote you to notify the Commission, pursuant to Rule 25-6.140, F.A.C., that FPL intends to file a request in March 2009 to increase its base rates effective January 1, 2010, based on a 2010 projected test year (the "FPL Test Year Letter"). FPL explained that the use of this projected test year "will provide a more representative view of FPL's expected financial condition during the period when new rates would be in effect, and thus for ratemaking purposes [is] superior to basing new rates on historical data." FPL Test Year Letter at page 5. On December 2, 2008, OPC wrote you to request that the Commission deny FPL's proposal to use a 2010 test year and direct FPL to use a 2009 test year instead (the "OPC Test Year Request"). FPL respectfully requests that the Commission deny the OPC Test Year Request and approve FPL's use of a 2010 test year, for the following reasons.

COM \_\_\_\_\_  
 ECR 1  
 GCL 1  
 OPC \_\_\_\_\_  
 RCP 1  
 SSC 1  
 SGA 2  
 ADM \_\_\_\_\_  
 CLK \_\_\_\_\_

Rule 25-6.140(1)(a) specifically contemplates that a utility may use a projected test year. The Commission has approved the use of projected test years for decades now, and the Supreme Court of Florida has specifically recognized that the Commission has authority to base its ratemaking decisions on projected test years. *See, e.g., Southern Bell Tel & Tel. Co. v. Public Service Comm'n*, 443 So.2d 92, 97 (Fla. 1983) (“In its cross-appeal, the Citizens contend that basing rate relief on a projected test year departs from the essential requirements of law. We disagree. Section 364.035(1), Florida Statutes (1981), provides that the Commission has the authority to fix ‘just, reasonable, and compensatory rates.’ Nothing in the decisions of this Court or any legislative act prohibits the use of a projected test year by the Commission in setting a utility’s rates. We agree with the Commission that it may allow the use of a projected test year as an accounting mechanism to minimize regulatory lag. *The projected test period established by the Commission is a ratemaking tool which allows the Commission to determine, as accurately as possible, rates which would be just and reasonable to the customer and properly compensatory to the utility.*”) (emphasis added).

The Commission permitted FPL to use a projected test year in 2005 that bears almost precisely the same temporal relationship to FPL’s rate request as FPL’s proposed 2010 test year bears to the rate request that FPL now intends to file. In Docket No. 050045-EI, FPL petitioned for a rate increase in March 2005, for rates to go into effect on January 1, 2006, based on a 2006 projected test year. In this case, FPL intends to file its petition and supporting materials in March 2009, for rates to go into effect on January 1, 2010, based on a 2010 projected test year. FPL filed its test year letter for the 2005 rate request on January 21, 2005. Neither OPC nor any other intervenor objected at the time to FPL’s selection of a 2006 test year. Similarly, no one objected to the Commission’s permitting Progress Energy Florida to use a 2006 projected test year in its rate proceeding that was filed in April 2005 (Docket No. 050078-EI), for rates to go into effect on January 1, 2006.

The OPC Test Year Request offers no valid reason why the Commission should deny FPL’s request to use a 2010 test year. Let me review the reasons offered by OPC and explain why they are not valid:

- OPC first objects that 2010 is farther out in time than 2009 and therefore data projected for 2010 would be less reliable. This is pure, unsupported speculation on OPC’s part. As noted above, FPL was in the same temporal sequence for its 2005 rate request and presented thorough, complete data for its 2006 test year that had been developed using the same processes and subject to the same internal reviews and approvals as its 2005 budgeted data. *See* Pre-Filed Direct Testimony of FPL witnesses Solomon L. Stamm and Michael E. Barrett, filed in Docket No. 050045-EI on March 22, 2005 (FPSC Document Nos. 02762-05 and 02774-05). FPL intends to do the same in this docket. There is no reason to expect that the test year data FPL will present for 2010 will be less reliable, less detailed or less verifiable than would be 2009 data.

- OPC notes that 2009 is FPL's current budget year and argues that it would be more work for FPL to develop test year data for 2010 and would be more work for parties to review that data. While FPL appreciates OPC's solicitude about FPL's workload, the premise for this argument is incorrect. FPL is preparing and reviewing 2009-2011 projections simultaneously; the workload is shared and essentially the same for all three years. FPL also fails to see how the review burden on OPC or other parties would be any greater with a 2010 test year than a 2009 test year. In either case, FPL will have presented detailed MFRs and will be prepared to respond to discovery providing supporting information on those MFRs as required.
- OPC argues that using a 2009 test year would be more consistent with the new depreciation study that FPL is scheduled to file in March 2009. This is premised on OPC's assumption that the depreciation study will propose new rates to go into effect on January 1, 2009. *See* OPC Test Year Request at page 2. In fact, however, FPL intends to file new depreciation rates that will become effective on January 1, 2010. As OPC should know, changing depreciation rates earlier than January 1, 2010 would be inconsistent with Paragraph 8 of the Stipulation and Settlement to which OPC was a part and which the Commission approved in Docket No. 050045-EI. *See* Order No. PSC-05-0902-S-EI, dated September 14, 2005, Attachment A, pages 8-9. Using a 2009 test year (which would necessarily reflect existing depreciation rates) to set rates that will go into effect on January 1, 2010, when *new* depreciation rates will go into effect on that same date would result in a completely inappropriate mismatch in violation of basic ratemaking principles.
- Finally, OPC recommends the use of a 2009 test year because it would allow the Commission to consider a certain amount of actual data for 2009 as it becomes available during the course of the rate proceeding. However, this is in effect an argument against using fully projected test years, which the Commission has routinely approved in the past. While it is true that using a test year that coincides with the year of the rate proceeding would allow a measure of comparison between actual and projected data, it necessarily would do so at the expense of relying on data for a year that will have already passed by the time the new rates go into effect. In short, while the use of 2009 as a test year would provide some greater assurance that the revenues, expenses and investment were accurately projected for 2009, it would provide *no* assurance that 2009 would remain representative of future revenues and expenses when the new rates go into effect in 2010. This is hardly an attractive tradeoff and should be rejected accordingly. Moreover, the process of continually updating test year projections for monthly actuals as they became available would be an administrative nightmare and present the Commission and parties with a constantly moving target in their evaluation of the rate request.

For these reasons, 2010 is a much more appropriate test year for FPL's rate request in this docket than would be 2009. Using 2010 as the test year will help ensure that the rates the Commission sets are more representative of expected conditions when they go into effect. It will therefore make it less likely that FPL would have to file another rate case shortly thereafter, to compensate for changed conditions between 2009 and 2010. Reducing the number of potential rate proceedings is in everyone's interest – the Commission's and customers' as well as FPL's. Accordingly, the Commission should deny the OPC Test Year Request and approve the use of a 2010 test year for this proceeding.

On December 5, 2008, the Commission Staff wrote OPC in response to the OPC Test Year Request, advising that it did not have sufficient information to determine whether 2010 is or is not the appropriate test year and that FPL will have the burden of proving that it is. Subsequently, FPL and OPC have met with Staff and jointly urged that a prompt decision on the appropriate test year will benefit everyone. Staff has responded by referencing the Commission's Order No. 25292, issued in Docket No. 910890-EI on November 4, 1991, wherein the Commission denied a request by OPC for a hearing on the test year chosen by what was then called Florida Power Corporation. In denying that request, the Commission found that

[FPC's] choice of test year periods in this instance is a suitable starting point in the case, for the purpose of filing MFRs and beginning the ratemaking process. We would like to reiterate, however, that our acceptance of the test years is interim in nature. It is subject to our review and modification in the rate case proper. It in no way precludes us from requiring the utility to submit other data from other years, if we believe the data is needed to set fair, just and reasonable rates.

Order No. 25292 at 4. Staff has asked that FPL write you to respond to the OPC Test Year Request and to Staff's December 5 letter to OPC, with the understanding that you will then make an interim decision on the appropriate test year consistent with the guidance in Order No. 25292. This letter is written for that purpose.

During our meetings with OPC and Staff, we discussed the limited set of MFRs that the Commission requires for the "Prior Year" (*i.e.*, the year preceding the test year). Although FPL clearly is not required under Order No. 25292 to file a complete set of MFRs for the 2009 Prior Year, FPL has agreed with Staff that, if the Commission accepts the use of a 2010 test year, FPL will supplement its 2009 Prior Year MFRs with an additional filing of MFR schedules that provide a more complete set of data on projected 2009 financial results. I am attaching to this letter a list of the additional 2009 MFRs that FPL intends to file. To clarify, FPL is agreeing to file these additional 2009 MFRs in this proceeding for informational purposes only and as an accommodation to Staff and OPC. The additional 2009 MFRs are not required by the Commission's rules or policies on minimum filing requirements and are not part of the minimum

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filing requirements referenced in determining the "commencement date for final agency action" in section 366.06(3) of the Florida Statutes. The preparation and development of the additional 2009 MFRs is a substantial undertaking at this stage of the process. FPL anticipates that it will be able to complete the additional 2009 MFRs within two weeks after the filing of the petition, MFRs and supporting testimony and will advise the Commission and OPC in the event a reasonable additional amount of time is necessary.

As you know, preparing the testimony, exhibits and MFRs that will support FPL's rate request is a lengthy, complex process. Accordingly, FPL respectfully requests that you advise of your interim decision on the appropriate test year as quickly as possible.

Sincerely,



R. Wade Litchfield  
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Attorneys for  
Florida Power & Light Company

cc: Commissioner Lisa P. Edgar  
Commissioner Katrina J. McMurrin  
Commissioner Nancy Argenziano  
Commissioner Nathan A. Skop  
Dr. Mary Bane, Executive Director  
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Charles J. Beck, Esq., Office of Public Counsel

**Supplemental 2009 MFRs**

<b>MFR Schedule</b>	<b>Title</b>
B-04	TWO YEAR HISTORICAL BALANCE SHEET
B-05	DETAIL OF CHANGES IN RATE BASE
B-06	JURISDICTIONAL SEPARATION FACTORS - RATE BASE
B-07	PLANT BALANCES BY ACCOUNT AND SUB ACCOUNT
B-08	MONTHLY PLANT BALANCES TEST YEAR - 13 MONTHS
B-09	DEPRECIATION RESERVE BALANCES BY ACCOUNT AND SUB ACCOUNT
B-10	MONTHLY RESERVE BALANCES TEST YEAR - 13 MONTHS
B-11	CAPITAL ADDITIONS AND RETIREMENTS
B-13	CONSTRUCTION WORK IN PROGRESS
B-14	EARNINGS TEST
C-04	JURISDICTIONAL SEPARATION FACTORS - NOI
C-05	OPERATING REVENUES DETAIL
C-09	FIVE YEAR ANALYSIS - CHANGE IN COST
C-10	DETAIL OF RATE CASE EXPENSES FOR OUTSIDE CONSULTANTS
C-11	UNCOLLECTIBLE ACCOUNTS
C-12	ADMINISTRATIVE EXPENSES
C-13	MISCELLANEOUS GENERAL EXPENSES
C-17	PENSION COST
C-22	STATE AND FEDERAL INCOME TAX
C-23	INTEREST IN TAX EXPENSE CALCULATION
C-26	INCOME TAX RETURNS
C-27	CONSOLIDATED TAX INFORMATION
C-28	MISCELLANEOUS TAX INFORMATION
C-31	AFFILIATED COMPANY RELATIONSHIPS
C-34	STATISTICAL INFORMATION
C-37	O & M BENCHMARK COMPARISON BY FUNCTION
C-38	O & M ADJUSTMENTS BY FUNCTION
C-39	BENCHMARK YEAR RECOVERABLE O&M EXPENSES BY FUNCTION
D-07	COMMON STOCK DATA
D-08	FINANCING PLANS - STOCK AND BOND ISSUES
E-17	LOAD RESEARCH DATA
F-01	ANNUAL AND QUARTERLY REPORT TO SHAREHOLDERS
F-02	SEC REPORTS
F-03	BUSINESS CONTRACTS WITH OFFICERS OR DIRECTORS
F-04	NRC SAFETY CITATIONS
F-05	FORECASTING MODELS
F-06	FORECASTING MODELS - SENSITIVITY OF OUTPUT TO CHANGES IN INPUT DATA
F-07	FORECASTING MODELS - HISTORICAL DATA
F-08	ASSUMPTIONS