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Sent: Monday, April 20, 2009 9:15 AM
To: Filings@psc.state.fl.us
Cc: Anna Williams; Brian Armstrong; Bryan Anderson; D. Marcus Braswell ; Jack Leon; Jean Hartman; Jennifer L. Spina; John_Butler@fpl.com; John T. LaVia; Ken Hoffman; Kenneth L. Wiseman; Lisa Bennett; Lisa M. Purdy; Mark F. Sundback; Marlene Stern; Martha Brown; Natalie F. Smith (Nattie_Smith@fpl.com); Schef Wright; Scott E. Simpson; Wade Litchfield
Subject: e-filing (Dkt. Nos. 080677-EI & 090130-EI)
Attachments: 080677.motion to consolidate.sversion.doc

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080677-EI

In re: Petition for rate increase by Florida Power & Light Company.

Docket No. 090130-EI
In re: 2009 depreciation study by Florida Power & Light Company.

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 6 pages.

e. The document attached for electronic filing is Citizen's Motion to Consolidate Docket Nos. 080677-EI (FPL Base Rate Request) and 090130-EI (FPL Depreciation Study).
(See attached file: 080677.motion to consolidate.sversion.doc)

Thank you for your attention and cooperation to this request.

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DOCUMENT NUMBER-DATE

03607 APR 20 8

FPSC-COMMISSION CLERK

4/20/2009

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by
Florida Power & Light Company

DOCKET NO.: 080677-EI
FILED: April 20, 2009

In re: 2009 depreciation study by Florida
Power & Light Company.

DOCKET No. 090130-EI
FILED: April 20, 2009

**CITIZENS' MOTION TO CONSOLIDATE
DOCKET NOS. 080667-EI (FPL BASE RATE REQUEST)
AND 090130-EI (FPL DEPRECIATION STUDY)**

The Citizens of the State of Florida, by and through the Office of Public Counsel, move to consolidate Docket Nos. 080667-EI (revenue requirements) and 090130-EI (depreciation study), and in support state:

1. On March 17, 2009, Florida Power & Light Company (FPL) filed a depreciation study prepared by its consultant, Richard Clarke. While the study was identified by FPL as being filed in Docket No. 080677-EI, which is the proceeding on the utility's pending request for authority to increase its base rates, the Commission assigned Docket No. 090130-EI to the depreciation study. The March 17, 2009 filing was unaccompanied by any sponsoring testimony.
2. A day later, on March 18, 2009, FPL filed its petition for authority to increase its base rates, together with supporting testimony and exhibits. The filing included prefiled direct testimony of Mr. Clarke, who prepared the depreciation study. Attached to the cover page of his exhibit, identified as the depreciation study, is a note stating that the study was filed

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on March 17, 2009 due to the Commission's timing requirements for that document, and that the study was not being duplicated for the March 18, 2009 filing because of its voluminous nature.

3. Included in the March 18, 2009 rate case filing is the prefiled testimony of Robert Barrett. Mr. Barrett testifies that changes in depreciation comprise one of the drivers of the utility's claim of a revenue deficiency. He states that one component of FPL's \$1.04 billion request is a proposed increase in depreciation expense of \$89 million annually.

4. Also included in the March 18, 2009 rate case filing is the prefiled testimony of Kim Ousdahl. At page 19, Ms. Ousdahl states, "FPL has prepared and filed its 2009 depreciation study on March 17, 2008, which is being sponsored by FPL witness Clarke as Exhibit CRC-1, and has made a company adjustment to the 2010 and 2011 Subsequent Years to reflect changes in depreciation expense based on this depreciation study. . . . Therefore, the Company's 2010 Test Year and 2011 Subsequent Year requests include the impact of these updated depreciation requests." And, at pages 21-22, she states, "The concurrent filing of FPL's 2009 depreciation study along with FPL's base rate filing was made to allow the FPSC time to review and approve the depreciation rates prior to setting base rates in this proceeding. FPL requests that the final outcome of the review and approval of the depreciation study be reflected in the 2010 and 2011 Subsequent Period results."

5. OPC has engaged a consultant to analyze the depreciation study that has been assigned Docket No. 090130-EI and that Mr. Clarke supports in testimony filed in Docket No. 080677-EI. OPC's consultant has progressed sufficiently far in his analysis at this point to enable OPC to state that OPC will take issue with many of the principal assumptions, rationales, and choices underlying the conclusions reached by FPL's depreciation consultant. Among other things, OPC anticipates that at issue will be FPL's proposed treatment of its current, very large excess depreciation reserve; the service lives over which FPL's consultant proposes to depreciate certain major plant assets; and certain assumptions regarding the cost of removal made by FPL's analyst.

6. Because FPL has rolled the proposed increase in annual depreciation expense recommended by its consultant into its base rate request, the subjects are inextricably interrelated. Contrary to FPL's statement, the proceeding on the depreciation study will involve far more than "reviewing and approving" the study in its original form. It will require an evidentiary proceeding involving substantial factual disputes and competing policy recommendations, all of which have the potential of impacting significantly the determination of the utility's revenue requirements in Docket No. 080677-EI.

7. Currently, the Commission has developed a complete schedule, including dates for an evidentiary hearing, in Docket No. 080677-EI (revenue requirements). As of the filing date of this Motion, the entry for Docket No. 090130-EI (depreciation) shows only a deadline for an updated CASR. Based on the manner in which the Commission docketed

the matter, in Docket No. 909130-EI the Commission Staff and OPC have served on FPL discovery requests related to the depreciation study.¹

8. In view of the relationship between the depreciation study, which will be contested, and the revenue requirements case, in which FPL lodged the testimony of the individual who prepared the depreciation study and in which FPL has rolled the results of the study into its pending request, considerations of administrative efficiency and due process require the consolidation of the two dockets for purposes of a single evidentiary hearing.

9. OPC has contacted counsel for other parties with respect to their positions on this motion. FPL authorized the undersigned to state that FPL supports consolidating the two dockets. The South Florida Hospital and Healthcare Association also supports the granting of this motion. The Florida Retail Federation does not oppose the granting of this motion. The I.B.E.W takes no position on the motion.

¹ OPC favors maintaining the two separate docket numbers and consolidating them for purposes of the evidentiary hearing and related decisions. As stated above, OPC and the Commission Staff have initiated discovery requests in Docket No. 090190-EI. The depreciation study is voluminous and complex. An analysis of the study and its underpinnings requires a significant amount of discovery. In consolidating the two matters, the Commission should not require parties to count discovery requests served in the depreciation docket against the ceiling on such requests established in the revenue requirements case.

WHEREFORE, Citizens request the Commission to enter an order consolidating Docket Nos. 080667-EI and 090190-EI for purposes of a single evidentiary hearing.

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CERTIFICATE OF SERVICE
DOCKET NOS. 080677-EI & 090130-EI

I HEREBY CERTIFY that a copy of the foregoing **CITIZENS' MOTION TO CONSOLIDATE** has been furnished by electronic mail and U.S. mail to the following parties on this 20th day of April, 2009 to the following:

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