Ruth Nettles

From: MERCHANT.TRICIA [MERCHANT.TRICIA@leg.state.fl.us]
Sent: Friday, August 07, 2009 3:42 PM
To: Filings@psc.state.fl.us
Cc: Charles Beck
Subject: FW: e-filing (Dkt. Nos. 080677-EI & 090130-EI
Attachments: *080677 OPC Final Prehearing Statement.doc*

The Clerk's Office was inadvertently left off of the email distribution. Please contact Charlie Beck for further information.

From: ROBERTS.BRENDA
Sent: Thursday, August 06, 2009 4:31 PM
Cc: Anna Williams (anwillia@psc.state.fl.us); *Brian Armstrong; Bryan Anderson; cecilia_bradley@oag.state.fl.us;* D. Marcus Braswell ; Jack Leon; Jean Hartman; Jennifer L. Spina; John McWhirter; John Moyle; John T. Butler (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 (Natlie_Smith@fpl.com); Schef Wright; Scott E. Simpson; Shayla L. McNeil; Stephanie Alexander; Tamela Ivey Perdue; Thomas Saporito (support@saporitoenergyconsultants.com); Vickie Gordon Kaufman (vkaufman@kagmlaw.com); Wade Litchfield
Subject: e-filing (Dkt. Nos. 080677-EI & 090130-EI

Electronic Filing

a. Person responsible for this electronic filing:

Joseph A. McGlothlin, Associate Public Counsel
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b. Docket Nos. 080677-EI and 090130-EI

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

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

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

d. There are a total of 50 pages.

e. The document attached for electronic filing is Citizen's.

(See attached file: 080677 OPC Final Prehearing Statement.sversion.doc)

Thank you for your attention and cooperation to this request.

Brenda S. Roberts
Office of Public Counsel
Telephone: (850) 488-9330
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company	DOCKET NO.: 080677-EI
In re: 2009 depreciation study by Florida Power & Light Company.	DOCKET No. 090130-EI
	FILED: August 6, 2009

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-09-0159-PCO-EI, issued March 20, 2009, and Order No. PSC -09-0521-PCO-EI, issued July 27, 2009, hereby submit this Prehearing Statement.

APPEARANCES:

Joseph A. McGlothlin
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111 West Madison Street, Room 812
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On behalf of the Citizens of the State of Florida.

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Patricia A. Christensen
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On behalf of the Citizens of the State of Florida.

1. WITNESSES:

The Citizens intend to call the following witnesses, who will address the issues indicated:

NAME	ISSUES
Jacob Pous	18-19, 21-36, 38-44
Kimberly H. Dismukes	93, 109-117,119
Dr. J. Randall Woolridge (Dr. Woolridge is only available the following dates: 8/27-28/09 and 9/3-4/09.)	66-68, 70-81
Sheree L. Brown	2, 5-8, 14-16, 50-51, 55-56, 58 60, 62-64, 66, 81, 89-91, 96-97, 100, 103-105, 107-108, 120, 128, 131-132, 134-137
Daniel J. Lawton	37

2. EXHIBITS:

Through Jacob Pous, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

JP-Appendix A	Resume
JP-1	Recommended Depreciation Adjustment Summary
JP-2	Summary of Excess Reserves
JP-3	Calculation Error on Remaining Life
JP-4	Interim Retirement Ratios and Impact on Remaining Lives
JP-5	Adjustments to FPL's Life Analyses
JP-6	Recommended 43 L1 Life-Curve Combinations
JP-7	Proposed Net Salvage Values For Mass Property
JP-8	Composite Discovery Exhibit
JP-9	Iowa Survivor Curves Detail

Through Kimberly H. Dismukes, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

KHD-1	Kimberly H. Dismukes Qualifications
KHD-2	FPL Group, Inc. Organizational Chart
KHD-3	Florida Power & Light Company FPL Affiliate Growth
KHD-4	Florida Power & Light Company Direct Charges to Affiliates
KHD-5	Florida Power & Light Company FPL Massachusetts Formula
KHD-6	FPL Group, Inc. Shared Executives
KHD-7	FPL Group, Inc. Earnings Summary by Segment
KHD-8	FPL Group, Inc. 2008 Annual Report
KHD-9	Florida Power & Light Company OPC Recommended Affiliate Management Fee Cost Drivers
KHD-10	Florida Power & Light Company OPC Recommended Massachusetts Formula
KHD-11	Florida Power & Light Company OPC Recommended Affiliate Management Fee Adjustments
KHD -12	Florida Power & Light Company FiberNet Adjustment
KHD-13	Florida Power & Light Company FPLES Margin on Gas Sales Adjustment
KHD-14	Florida Power & Light Company

Gain On Sale Adjustment

KHD-15	Florida Power & Light Company Miscellaneous Revenue Adjustment
KHD-16	Florida Power & Light Company Summary of Affiliate Adjustments

Through Dr. J. Randall Woolridge, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

JRW-1	Recommended Rate of Return
JRW-2	Interest Rates
JRW-3	The Credit Crisis and Capital Cost Rates
JRW-4	Summary Financial and Risk Statistics for Proxy Group
JRW-5	Capital Structure Ratios and Debt Cost Rate
JRW-6	The Relationship Between Estimated ROE And Market-To-Book Ratios
JRW-7	Public Utility Capital Cost Indicators
JRW-8	Industry Average Betas
JRW-9	Three-Stage DCF Model
JRW-10	DCF Study
JRW-11	CAPM Study
JRW-12	Summary of FPL's Equity Cost Rate Approaches and Results
JRW-13	Summary Financial and Risk Statistics for Dr. Avera's Proxy Group
JRW-14	Analysis of EPS Growth Rate Forecasts
JRW-15	GDP and S&P 500 Growth Rates

Through Sheree L. Brown, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

SLB-1	Resume
SLB-2	Cost of Service Analyses
SLB-3	Transmission Allocation Adjustment
SLB-4	Increase in Transmission Costs
SLB-5	Uncollectible Accounts Adjustment
SLB-6-REVISED	Uncollectible Accounts Expense
SLB-7	Late Payment Revenue Adjustment
SLB-8	Late Payments-Revenue Expansion Factor
SLB-9	Load Forecast Analysis
SLB-10	Load Forecast Adjustment
SLB-11	Projected Payroll
SLB-12	Actual Versus Targeted FTES
SLB-13	Reconciliation of MFR Schedule C- 35-B OM Allocation
SLB-14	Labor Cost Adjustment-Full-Time Equivalents
SLB-15	Executive Incentives
SLB-16	FPL 2008 Financial Performance Matrix
SLB-17	Total Incentive Compensation
SLB-18	Executive Incentives Exceeding Targets
SLB-19	Regulatory Decisions on Executive Compensation
SLB-20	Revenue Impact of Executive Incentives

SLB-21	Non-Executive Incentives
SLB-22	Environmental Insurance Refund
SLB-23	End-Of-Life Nuclear Materials and Supplies and Last Core Nuclear Fuel
SLB-24	Depreciation and Reserve Adjustment
SLB-25	Cost of Capital
SLB-26-REVISED	OPC Consolidated Revenue Impact

Through Daniel J. Lawton, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis:

DJL-1	Resume Of Daniel J. Lawton
DJL-2	Commission Recovery Adjustments
DJL-3	Excess Reserve / Function
DJL-4	Cash Flow Impacts
DJL-5	Filed Case Cash Flow
DJL-6	FPL Financial Ratios

3. STATEMENT OF BASIC POSITION

FPL's petition-- in which FPL seeks authority to increase base rates and miscellaneous service charges by more than $1 billion annually in January of 2010, another $250+ million annually in January 2011, and another $180 million annually at the point in 2011 when its next generating unit comes on line-- exemplifies the reasons why it is necessary to restrain a monopoly's behavior through effective and ongoing regulatory oversight. FPL's overall request is a conglomeration of extreme positions and excessive demands—all of which FPL pursues at a time when customers are experiencing severe economic hardships. FPL proposes to use its extravagant 59% equity ratio for ratemaking purposes. This is far higher—and would be far more expensive to customers-- than the more reasonable common equity ratios of comparable electric utility companies. FPL's request for a return on equity of 12.50% is detached from any credible consideration of current conditions in capital markets or FPL's low risk profile. FPL's proposal to increase depreciation expense at a time when it has over-collected depreciation by more than $2 billion is inequitable and self-serving in the extreme. FPL wants the Commission to vote now to allow FPL to increase base rates each time a future power plant enters commercial service, without any concurrent regulatory consideration of the ability of FPL's rates in effect at the time to absorb some or all of the costs without an increase. With this particular request FPL asks the Commission—not to exercise its ratemaking authority—but to abdicate it. Not content with the advantages associated with a fully projected test year, FPL pushes for a second increase in 2011 that would require the Commission to attempt to peer even farther into the future—at a time when the speculation inherent in doing so is exacerbated by the uncertainties accompanying a calamitous economic downturn. This is hardly the standard of accurate and reliable information to which bill-paying customers are entitled. At a time when customers are already paying for past storms and the Commission has shown its readiness to approve surcharges if and when warranted by future storm damage, FPL's proposal to increase base rates by $150 million annually to add to its storm reserve is unwarranted and unfair on its face.

When these and other overreaching proposals are tempered by the application of the standards of fairness and reasonableness, it will become clear that FPL's outsized demands mask an overearnings situation. As OPC's evidentiary presentations will demonstrate, the Commission should reduce FPL's base rates, not increase them.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

2010 PROPOSED TEST PERIOD

ISSUE 1: Does the Commission have the legal authority to approve a base rate increase using a 2010 projected test year?
Whether the FPSC has jurisdiction under Florida law at Sections 366.06(1) and 367.08(2) to consider FPL's petition for a rate increase based on FPL's projected 2010 test-year period of the 12 –months starting January 1, 2010 and ending December 31, 2010 supported by future speculative projections of costs and investments used and useful in the public service? (Saporito's proposed issue)

OPC: OPC has not contested the authority of the Commission to approve a base rate increase using a 2010 projected test year in this proceeding.

ISSUE 2: Is FPL's projected test period of the 12 months ending December 31, 2010, appropriate?

OPC: While OPC believes that the 2010 projections are less reliable than the 2009 data, OPC will not object to the use of the 2010 Test Year in this proceeding. (Brown)

ISSUE 3: Are FPL's forecasts of customers, kWh, and kW by rate classes for the 2010 projected test year appropriate?

OPC: No. FPL's correction to its load forecast for minimum use customers should be adjusted to reflect a 7.42% historical average. The re-anchoring adjustment should be eliminated. In 2010, FPL's revised net energy for load should be 112,086,988,335 and FPL's revenues should be increased by $46,500,182. The net reduction in revenue requirements, including reallocation of revenue requirements, is $46.11 million.

2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD

ISSUE 4: Does the Commission have the legal authority to approve a subsequent year base rate adjustment using a 2011 projected test year?
Whether the FPSC has jurisdiction under Florida law at Sections 366.06(1) and 367.08(2) to consider FPL's petition for a rate increase based on FPL's projected 2011 test-year period of the 12-months starting January 1, 2011 and ending December 31, 2011 supported by future speculative projections of costs and investments used and useful in the public service? (Saporito's proposed issue)

OPC: Especially in view of the uncertainties associated with the economic downturn, the predictions offered by FPL are too speculative to form a basis on which to fix rates for 2011. OPC asserts that an attempt by the Commission to do so would amount to an unlawful abuse of discretion.

ISSUE 5: Should the Commission approve in this docket FPL's request to adjust base rates in January 2011?

OPC: No. The assumptions used in developing the 2011 revenue requirements reflect an unacceptable level of economic uncertainty. See OPC's position on Issues 4 and 6. (Brown)

ISSUE 6: Is FPL's projected subsequent year test period of the 12 months beginning January 1, 2011 and ending December 31, 2011, appropriate?

OPC: No. The 2011 test year incorporates an unacceptable level of uncertainty and should be rejected. FPL's projections and assumptions are based on current economic conditions. If the economy recovers faster or greater than FPL's requested assumptions, allowing a subsequent rate increase using a 2011 test year could easily generate excess earnings at ratepayer expense. FPL would have no obligation to then reduce rates without customer or Commission intervention. OPC witnesses have addressed the revenue impacts for the 2011 test year in the event the Commission decides to entertain the Company's proposal for a subsequent year rate adjustment. (Brown)

ISSUE 7: Are FPL's forecasts of customers, kWh, and kW by rate classes for the 2011 projected test year appropriate?

OPC: No. FPL's correction to its load forecast for minimum use customers should be adjusted to reflect a 7.42% historical average. The re-anchoring adjustment should be eliminated. In 2011, FPL's revised net energy for load should be 113,633,626,793 and FPL's revenues should be increased by $40,351,388. The net reduction in revenue requirements, including reallocation of revenue requirements, is $39.94 million. (Brown)

GENERATION BASE RATE ADJUSTMENT

ISSUE 8: Should the Commission approve a Generation Base Rate Adjustment (GBRA) which would authorize FPL to increase base rates for revenue requirements associated with new generating addition approved under the Power Plant Siting Act, at the time they enter commercial service?

OPC: No. The requested GBRA mechanism would allow FPL to avoid regulatory oversight of its overall costs of service by providing an automatic base rate increase when new plant is added regardless of the achieved rate of return. Ratepayers would be forced to bear unwarranted increases in base rates if existing earnings are sufficient to absorb some or all of the costs of the addition. (Brown)

ISSUE 9: If the Commission approves a GBRA for FPL, how should the cost of qualifying generating plant additions be determined?

OPC: The cost of qualifying assets should be based on the most recently available information at the time that the request is made by FPL to adjust its rates, but should be limited to the bid made and accepted in the determination of need proceeding.

~~**ISSUE 10:**~~ ~~Should FPL use a 40 year life for the West County Energy Center 3 as opposed to a 25 year life, when calculating depreciation expenses in its GBRA?~~ ~~*(My notes reflect that this was included. Is this correct)*~~

ISSUE 11: If the Commission approves a GBRA for FPL, how should the GBRA be designed?

OPC: First, any base rate increase should be considered only when the addition of the prospective plant revenue requirements to the Company's most recent surveillance report will cause the company to earn less than the floor of its last authorized rate of return on equity. To make its request, the Company should be required to file minimum filing requirements similar to what Rule 25-30.445, FAC, requires for water and wastewater companies in order to file for a limited proceeding rate increase. The docketed proceeding should provide sufficient time for staff to audit the proposed filing/increase and allow for a point of entry for parties to participate if necessary. In its filing, FPL should be required to make a showing similar to the interim statute for requested interim rate increases: revenue requirement calculations should be reflected with adjustments made consistent with its last rate case proceeding and by using the range of its last authorized rate of return on equity in determining the cost of capital. The amount of increase should be limited to that necessary to restore the company to the bottom of its authorized overall fair rate of return. Because the filing would be based on estimates, the rate increase should be held subject to refund pending the filing of actual amounts to protect customers in case the rate increase generated excess earnings.

ISSUE 12: If the Commission approves a GBRA for FPL, should the maximum amount of the base rate adjustment associated with a qualifying generating facility be limited by a consideration of the impact of the new generating facility on FPL's earned rate of return ("earnings test")? If so, what are the appropriate financial parameters of the test, and how should the earnings test be applied?

OPC: If the Commission approves a GBRA for FPL, any base rate increase should be considered only when the addition of the prospective plant revenue requirements to the Company's most recent surveillance report will cause the company to earn less than the floor of its last authorized rate of return on equity. The amount of the increase should be limited to that necessary to restore the company to the bottom of the range of its authorized overall rate of return. Also, see OPC's Position on Issue 11.

ISSUE 13: If the Commission determines it appropriate to adopt the use of a GBRA mechanism, how should FPL be required to implement the GBRA?

OPC: See OPC's position on Issue 11.

ISSUE 14: If the Commission chooses not to approve the continuation of the GBRA mechanisms, but approves the use of the subsequent year adjustment, what is the appropriate adjustment to FPL's rate request to incorporate the revenue requirements reflected in the West County Unit 3 MFR Schedules?

OPC: The Commission should add back the adjustments made by FPL to remove WCEC3 from the 2011 revenue requirement Plant in service should be increased by $465.616 million, depreciation expense should be increased by $26.815 million ($19.623 million with J. Pous adjustment), accumulated depreciation should be increased by $8.250 million ($6.540 million with J. Pous adjustment), and production O&M expenses should be increased by $5.229 million. (Brown)

JURISDICTIONAL SEPARATION

ISSUE 15: Does FPL's methodology of including its transmission-related investment, costs, and revenues of its non-jurisdictional customers when calculating retail revenue requirements properly and fairly identify the retail customers appropriate revenue responsibility for transmission investment? If no, then what adjustments are necessary?

OPC: No. FPL's method of allocating transmission service revenue requirements results in a significant subsidy being charged to the retail jurisdictional customers. The costs of providing transmission service have increased without a concomitant increase in rates for long-term firm transmission customers. FPL's revenue credit methodology creates a retail deficiency of $18.5 million in 2010 and $19.0 million in 2011. The Company's cost of service analyses should be modified as adjusted in Witness Brown's Exhibit SLB-3 and corresponding adjustments should be made to all accounts that are impacted by a change in the cost of service. (Brown)

ISSUE 16: What is the appropriate jurisdictional separation of costs and revenues between the wholesale and retail jurisdictions?

OPC: Adjustments should be made to reflect OPC witness Brown's recommended adjustments to correct FPL's Jurisdictional Transmission Allocations and Net Energy Load (NEL) forecast. The Company's cost of service analyses should be modified as adjusted in Witness Brown's Exhibits SLB-3 (Jurisdictional Transmission Allocations) and SLB-9 and SLB-10 (NEL forecast). Corresponding adjustments should be made to all accounts that are impacted by a change in the cost of service. (Brown)

QUALITY OF SERVICE

<u>ISSUE 17</u>: Is the quality and reliability of electric service provided by FPL adequate?

OPC: No position.

<u>DEPRECIATION STUDY</u>

<u>ISSUE 18</u>: Should the current-approved depreciation rates, capital recovery schedules, and amortization schedules be revised?

OPC: Yes, they should be revised consistent with the recommendations of OPC witness Jacob Pous, as outlined in the responses to the following individual issues (Pous).

<u>ISSUE 19</u>: What are the appropriate depreciation rates, capital recovery schedules, and amortization schedules?

OPC: This should be the "fallout issue" that takes into account the Commission's consideration of, and explicit rulings on, the specific depreciation-related issues that OPC and other parties have raised and addressed through testimony and other participation in this proceeding. As such, it should be the last issue of the section. (Pous)

<u>ISSUE 20</u>: *INTENTIONALLY BLANK*

<u>ISSUE 21</u>: *Is FPL's proposed accelerated capital recovery appropriate? FIPUG*

OPC: No, for the reasons expressed in response to OPC's Issue 34. (Pous)

<u>ISSUE 22</u>: *What life spans should be used for FPL's coal plants? FIPUG*

OPC: The Commission should direct FPL to employ 60 years. See OPC Issue 25. (Pous)

<u>ISSUE 23</u>: *What life spans should be used for FPL's combined cycle plants? FIPUG*

OPC: The life span used by FPL is too short. At a minimum, the Commission should direct FPL to propose a more realistic span in its next depreciation study. If the Commission decides to change the span in this proceeding, it should use a minimum of 35 years. See OPC Issue 25. (Pous)

<u>ISSUE 24</u>: *What are the appropriate depreciation rates? City SD*

OPC: See response to Issue 19, above. (Pous)

ISSUE 25: *Has FPL applied appropriate life spans to categories of production plant when developing its proposed depreciation rates? (Note: To date, the parties have identified the following categories of production plant as sub issues)*

Coal-fired production units

Large steam oil or gas-fired generating facilities

Combined cycle generating facilities OPC

OPC: Coal-fired production units: No. FPL's proposed 40 year life span for coal-fired units is artificially short. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as indications of FPL's expectations, OPC supports a 60-year life span for coal-fired units.

Large steam oil or gas-fired generating facilities: No. Based on empirical evidence and the treatment afforded such units in other jurisdictions, as well as indications of FPL's own expectations, these units should be afforded a life span of 50 years for purposes of the depreciation study.

NOTE: The impact of OPC's adjustments for coal-fired and large steam units is to decrease depreciation expense by $32 million.

Combined cycle generating facilities: OPC submits that the 25-year life span that FPL uses for combined cycle units is unrealistically short. At a minimum, the Commission should direct FPL to evaluate available information and develop a more appropriate life span in its next depreciation study. OPC is aware that another intervenor's witness has identified 35 years and a second intervenor witness has identified 40 years as the appropriate life span. These values are more appropriate and closer to the view of OPC's witness, as well. If the Commission decides to revise the life span for combined cycle units in this proceeding, it should set the minimum value at 35 years. (Pous)

ISSUE 26: *Has FPL applied the appropriate methodology to calculate the remaining life of production units? OPC*

OPC: No. FPL's consultant departed from the appropriate methodologies in two respects. First, FPL's consultant relied on a truncated Iowa Survivor curve approach. Reliance on Iowa Survivor curves is appropriate for mass property assets. Reliance on a truncated Iowa Survivor curve methodology for production assets can and has resulted in unrealistic and inappropriate results (e.g., Account 341 for the Putnam combined cycle where FPL's approach reduced the initial 10.5-year remaining life to only a 2-year adjusted remaining life even though the unit is not projected to retire until mid 2020). Second, FPL also artificially stops assigning future book accruals to vintage additions it believes are fully accrued. This approach defies logic as those vintages are still in service and are used to calculate the amount of depreciation that is to be booked currently and until that vintage addition is retired. This process also distorts the calculated remaining life.

In addition, FPL's analyst incorporated net salvage parameters as part of the remaining life calculation, rather than after the remaining life calculation. This means that a change in net salvage values would affect the remaining life – an illogical and inappropriate relationship. FPL's errors of methodology distort its remaining life calculations and its statement of its depreciation reserve excess. (Pous)

ISSUE 27: *Has FPL appropriately quantified the level of interim retirements associated with production units? If not, what is the appropriate level, and what is the related impact on depreciation expense for generating facilities? OPC*

OPC: No. FPL relied on a truncated actuarial analysis to estimate interim retirements. The method is inappropriate as noted in OPC's position to Issue 26. FPL compounded the error when it applied a life – curve that was not a good fit to the data. The company's approach leads to demonstrably unrealistic results. OPC witness Pous used a standard method even used by FPL's witness for most of his career, and actual Company – specific information to develop interim retirement ratios. This better approach results in a $54,916,074 reduction in depreciation expense. (Pous)

ISSUE 27A: *Has FPL appropriately calculated the remaining life of its plant?(Additional Issue Added by OPC)*

OPC: No. FPL's analyst uses a flawed methodology that is unique to his firm. FPL incorrectly limits the allocated book reserve to the surviving balance of an individual vintage, adjusted for net salvage. This artificial limitation conflicts with reality (the utility applies the depreciation rate to all property in service, regardless of vintage) and distorts the calculation of remaining life. In addition, FPL's witness recognizes the impact of net salvage parameters within the remaining life calculation rather than after the remaining life calculation. A methodology under which a change in net salvage also changes the calculation of remaining life is illogical and inappropriate. These flaws affect the calculation of depreciation expense and also of the amount of FPL's excess reserve. OPC's witness corrects these flaws in his analysis.

ISSUE 28: *Has FPL incorporated the appropriate level of net salvage associated with the interim retirements that are estimated to transpire prior to the final termination of a generating station or unit? If not, what is the appropriate level? OPC*

OPC: No. First, FPL's request is over stated due to its approach to the quantification of interim retirements. Next, FPL has proposed excessively negative levels of overall net salvage – the beginning point of the process – which then results in excessively negative interim retirement levels of net salvage. The more appropriate results are those recommended by OPC, which are based on investigation of the specific data within FPL's database. The Commission should make adjustments to 2 steam production accounts, 2 nuclear accounts, and 5 other production accounts, which when combined serve to reduce depreciation expense by $74 million annually. The individual adjustments are as follows (Pous):

a. Account 311- Structures and Improvements
OPC: Adjust FPL's proposed negative 15% interim net salvage to negative 5%.

b. Account 314 - Turbo Generator Units
OPC: Adjust FPL's proposed zero interim net salvage to 10% net salvage.

c. Account 322 – Reactor Plant Equipment
OPC: Adjust FPL's proposed negative 5% net salvage to negative 4%.

d. Account 324 – Accessory Electric – Equipment
OPC: Adjust FPL's proposed negative 20% to negative 2%.

e. Account 341 – Other Production Structures
OPC: Adjust FPL's proposed negative 25% net salvage to zero net salvage.

f. Account 342 – Other Production Fuel Holders
OPC: Adjust FPL's proposed negative 5% net salvage to zero net salvage.

g. Account 343 – Other Production Prime Moves
OPC: Adjust FPL's proposed negative 10% net salvage to zero net salvage.

h. Account 344 – Other Production Generators
OPC: Adjust FPL's proposed negative 100% met salvage to zero net salvage.

i. Account 345 – Other Production Accessory Electric Equipment
OPC: Adjust FPL's proposed negative 10% net salvage to zero net salvage.

ISSUE 29: *Has FPL quantified the appropriate level of terminal net salvage in its request for dismantlement costs? If not, what is the appropriate level? OPC*

OPC: No. FPL's quantification represents a worst case scenario for terminal net salvage. FPL's request fails to recognize any potential of full or partial sale of the site or facilities. FPL's request also fails to recognize the possibility of reuse of a site, which has already occurred. In addition, FPL's reliance on the "reverse construction" approach fails to recognize less costly means of demolition that have already been employed elsewhere. At a minimum, the Commission should direct FPL to propose a more realistic approach and cost level to terminal net salvage in its next depreciation study. If the Commission is inclined to change the terminal net salvage level in this proceeding, it should use 40% of FPL's request. The 40% level represents the approximate level actually obtained for generation demolition in comparison to similar "reverse construction" cost estimates. (Pous)

ISSUE 30: *Has FPL applied appropriate life characteristics (curve and life) to each mass property account (transmission, distribution, and general plant) when developing its proposed depreciation rates?(Note: To date, the parties have identified the following accounts as sub issues)*

OPC:

a. Account 350.2 – Transmission Easements.
OPC: Adjust FPL's proposed 50 year ASL and S4 down curve to 95 S4 life – curve. This results in a $2,432,236 reduction to depreciation expense.

b. Account 353 – Transmission Station Equipment
OPC: Adjust FPL's 38 R1.5 life – curve combination to a 43 L1 combination. This results in a reduction of $6,128,005 in depreciation expense.

c. Account 353.1 – Transmission Station Equipment – Step – Up Transformers
OPC: Adjust FPL's proposed 33 R2 life – curve combination to a 44 S0.5 life – curve combination. This results in a reduction of 42,281,178 in annual depreciation expense.

d. Account 354 – Transmission Tower and Fixtures
OPC: Adjust FPL's proposed 45 R5 life – curve combination to a 60 R4 life – curve combination. This will reduce depreciation expense by $3,192,653.

e. Account 356 – Transmission Overhead Conductor
OPC: Adjust FPL's proposed 47 R1.5 life – curve combination to 51 SO life – curve. This results in a reduction of $1,618,285 to depreciation expense.

f. Account 359 – Transmission Road and Trails
OPC: Adjust FPL's proposed 50 SQ combination to 65 SQ. This reduces depreciation expense by 4699,372.

g. Account 3623 – Distribution Station Equipment
OPC: Adjust FPL's proposed 41 R1.5 combination to 48 SO. This reduces depreciation expense by $5,860,004.

h. Account 364 – Distribution Poles, Towers, and Fixtures
OPC: Adjust FPL's proposed 37 R2 life – curve combination to a 41 R1.5 combination. This reduces depreciation expense by $13,188,572.

i. Account 365 – Distribution overhead Conductors
OPC: Adjust FPL's proposed 40 SO life – curve combination to 43 SO. This reduces depreciation expense by $5,026,679.

j. Account 367.6 – Underground Conductors
OPC: Adjust FPL's proposed 38 SO combination to 40 L1. The effect is to reduce depreciation expense by $2,238,822.

k. Account 367.7 – Distribution Underground Conductions and Devices – Direct Buried
OPC: Adjust FPL's proposed 35 R2 combination to a 43 SO.5 combination. This reduces depreciation expense by $1,613,351.

l. Account 368 – Distribution Line Transformers
OPC: Adjust FPL's proposed 32 L1.5 to a 34 L1.5 combination. This reduces depreciation expense by $3,808,140.

m. Account 369.7 – Distribution Services – Underground.
OPC: Adjust FPL's proposed 34 R2 life – curve combination to 41 SO.5. This reduces depreciation expenses by $4,160,079.

n. Account 370 – Distribution Meters
OPC: Adjust FPL's proposed 36 R2.5 combination to 38 S1.5. This reduces depreciation expense by $41,504,782.

o. Account 373 - Distribution Street Lighting and Signal Systems
OPC: Adjust FPL's proposed 30 RO.5 combination to a 35 LO combination. This reduces depreciation expense by $751,011.

p. Account 390 – General Plant Structures
OPC: Adjust FPL's proposed 50 R1.5 combination to 56 SO. This reduces depreciation expense by $1,022,803.

q. Account 392.01 – General Plant Aircraft – Fixed Wing
OPC: Adjust FPL's proposed 7 SQ life – curve combination to 9 R5. This reduces depreciation expense by $372,741.

r. Account 392.02 – General Plant Aircraft – Rotary Wing
OPC: Adjust FPL's proposed 7 SQ life – curve combination to a 9 R5 life – curve combination. This reduces annual depreciation expense by $178,226.
(Pous)

ISSUE 31: *Has FPL applied appropriate net salvage levels to each mass property (transmission, distribution, and general plant) account when developing its proposed depreciation rates?*

OPC: No. FPL proposes excessive levels of negative net salvage. FPL overstates depreciation expense by $69,146,207. This amount is the cumulative effect of adjustments to 14 different accounts, each of which requires a discrete decision. (Pous) *(Subissues for individual accounts for which adjustments are recommended):*

a. Account 353 Transmission Station Equipment
OPC: Adjust FPL's proposed negative 10% net salvage to zero net salvage. The effect of this adjustment is to reduce annual depreciation expense by $3,731,047.

b. Account 354 Transmission Tower & Fixtures
OPC: Adjust FPL's proposed 15% negative net salvage to zero net salvage. The effect of the adjustment is to reduce depreciation expense by $1,281,044.

c. Account 355 Transmission Poles & Fixtures
OPC: Adjust FPL's proposed negative 50% net salvage to negative 30% net salvage. The effect of the adjustment is to reduce depreciation expense by $4,329,923.

d. Account 356 Transmission Overhead Conductors
OPC: Adjust FPL's proposed negative 50% net salvage to negative 40% net salvage. The effect of the adjustment is to reduce depreciation expense by $1,506,549.

e. Account 364 Distribution Poles, Towers & Fixtures
OPC: Adjust FPL's proposed negative 125% negative net salvage to negative 60% net salvage. The effect of the adjustment is to reduce depreciation expense by $23,451,436.

f. Account 365 Overhead Conductors & Devices
OPC: Adjust FPL's proposed negative 100% negative net salvage to negative 50% net salvage. The effect of the adjustment is to reduce depreciation expense by $19,714,964.

g. Account 366.6 Underground Conduit – Duct System

OPC: Adjust FPL's proposed negative 5% net salvage to zero net salvage. The effect of the adjustment is to reduce depreciation expense by $1,073,994.

h. Account 367.6 Underground Conductor – Duct System
OPC: Adjust FPL's proposed negative 5% net salvage to zero net salvage. The effect of the adjustment is to reduce depreciation expense by $2,225,291.

i. Account 368 Distribution Line Transformers
OPC: Adjust FPL's proposed negative 25% net salvage to negative 20% net salvage. The effect of the adjustment is to reduce depreciation expense by $3,952,437.

j. Account 369.1 Distribution Services – Overhead
OPC: Adjust FPL's proposed negative 125% net salvage to negative 85% net salvage. The effect of the adjustment is to decrease depreciation expense by $1,968,596.

k. Account 369.7 Distribution Services – Underground
OPC: Adjust FPL's proposed 10% net salvage to negative 5% net salvage.

l. Account 370 Distribution Meters
OPC: Adjust FPL's proposed negative 55% net salvage to negative 10% net salvage. The effect of the adjustment is to reduce depreciation expense by $4,306,357.

m. Account 370.1 Distribution Meters – AMI
OPC: Adjust FPL's proposed 55% negative net salvage to negative 10% net salvage. The effect of the adjustment is to reduce depreciation expense by $711,992.

n. Account 390 General Structures & Improvements
OPC: Adjust FPL's proposed negative 10% net salvage to positive 25% net salvage. The effect of the adjustment is to decrease depreciation expense by $3,828,186.

ISSUE 32: *What are the appropriate depreciation rates for FPL, and what amount of annual depreciation expense should the Commission include in Docket 080677-EI for ratemaking purposes? OPC*

OPC: The Commission should adopt the recommendations of OPC witness Jacob Pous. The cumulative effect of his recommendations is to reduce annual depreciation expense from FPL's requested $1,065,623,140 to $824,950,126, or a reduction of $240,673,014. (Pous)

ISSUE 33: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FPL's data, *and a comparison of the theoretical reserves to the book reserves,* what are FPL's *theoretical* reserve imbalances?

OPC: FPL currently has a depreciation reserve excess of $2.7 billion. This amount is based on acceptance of OPC witness Jacob Pous' adjustments to FPL's depreciation study. It does not take into account OPC's and Mr. Pous' position that the life spans that FPL assigns to combined cycle units are too short; modifying those values to more realistic life spans in this proceeding would increase the size of FPL's depreciation reserve excess. (Pous)

<u>ISSUE 34</u>: What, if any, corrective reserve measures should be taken with respect to the theoretical reserve imbalances identified in the prior issue?

OPC: FPL's enormous depreciation reserve excess means it has over-collected depreciation expense from current customers in a way that constitutes a massive intergenerational inequity. A priority of these consolidated proceedings should be to rectify this cumulative inequity to the extent consistent with the dual objectives of achieving fairness to current customers while maintaining FPL's financial integrity. FPL's proposal to return the excess over a remaining plant life of about 22 years is woefully inadequate to address the inequity involved. OPC estimates that there will be a 50% turnover in residential customers during that period. Moreover, FPL easily can afford to do much more. FPL should be required to amortize $1.25 billion of its reserve excess back to customers over a period of four years. Limiting the amount of the overall $2.7 billion excess to be amortized to $1.25 billion will leave a thick "cushion" of reserve excess that will protect FPL at the same time the Commission requires FPL to begin to restore a measure of more equitable treatment to the customers who have overpaid. Limiting the amount to be amortized to $1.25 billion will protect FPL's financial integrity. OPC's review of FPL's financial integrity takes into account both the amortization of $1.25 billion of depreciation reserve excess *and the adoption of all of OPC's other recommendations in the consolidated proceedings, including the recommendation to reduce base rates by $364 million.* Based on OPC's review, FPL will continue to show the very strong financial parameters typical of an "A" rated utility. OPC's recommended four year amortization period coincides with the timing of FPL's next depreciation study, and is the same amortization period FPL relied on for its special amortization requests. At that time, based on further evaluation the Commission can fine tune its corrective action. (Pous)

<u>ISSUE 35</u>: *What steps should the Commission take to restore generational equity? FIPUG*

OPC: See Issue 34, above. (Pous)

ISSUE 36: *What considerations and criteria should the Commission take into account when evaluating the time frame over which it should require FPL to amortize the depreciation reserve imbalances that it determines in this proceeding? OPC*

OPC: The Commission should consider the extent to which it can reverse the pattern of overcollection of depreciation expense while maintaining FPL's strong financial integrity. It should also consider the timing of FPL's next depreciation study. The period of four years, when coupled with identifying $1.25 billion as the amount to be amortized, satisfies these criteria. See also Issue 34, above. (Pous)

ISSUE 37: *What would be the impact, if any, of the parties' respective proposals with respect to the treatment of the depreciation reserve imbalances on FPL's financial integrity? OPC*

OPC: If the Commission adopts *all* of OPC's recommendations in these consolidated dockets, *including* the recommendation to amortize $1.25 billion of FPL's reserve excess over four years and OPC's overall recommendation to reduce base rates by $364 million annually, FPL would continue to exhibit strong financial integrity. In his testimony and exhibits, OPC witness Daniel J. Lawton demonstrates that FPL would continue to display the financial parameters and indicators typical of an "A" rated electric utility. (Lawton)

ISSUE 38: *What is the appropriate disposition of FPL's depreciation reserve imbalances? OPC*

OPC: See Issue 34. OPC is willing to eliminate Issue 38 as duplicative of Issue 34. (Pous)

ISSUE 39: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

OPC: January 1, 2010. (Pous)

FOSSIL DISMANTLEMENT COST STUDY

ISSUE 40: Should the current-approved annual dismantlement provision be revised?

OPC: See Issue 29. (Pous)

ISSUE 41: What, if any, corrective reserve measures should be approved? (Pous)

OPC: See Issue 29. (Pous)

ISSUE 42: What is the appropriate annual provision for dismantlement?

OPC: See Issue 29. (Pous)

ISSUE 43: Does FPL employ reasonable depreciation parameters and costs when it assumes that it must restore all generation sites to "greenfield" status upon their retirement?

OPC: See Issue 29. (Pous)

ISSUE 44: In future dismantlement studies filed with the Commission, should FPL consider alternative demolition approaches? *May be stipulated.*

OPC: Yes. (Pous)

RATE BASE

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 45: Has the Company removed all non-utility activities from rate base?

OPC: No adjustments are known at this time and this issue can be dropped.

ISSUE 46: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses be included in the calculation of working capital allowance for FPL?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Consistent with Commission practice, clause overrecoveries are included (as a reduction) and underrecoveries are excluded from working capital. Overrecoveries represent funds the Company owes to customers that if excluded from working capital, customers would be providing the interest that the Company returned to them in the clause. In the clause, underrecoveries are collected from customers at the commercial paper rate. If clause underrecoveries are included in base rates, the company would receive a double return on the underrecovery.

ISSUE 47: Are the costs associated with Advanced Metering Infrastructure (AMI) meters appropriately included in rate base?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 48: *Is FPL's proposed base rate adjustment formula regarding the application of the Commission's Nuclear Cost Recovery Rule appropriate? (My notes reflect this issue and issue 59 were the same and moved to Other Issues section) *City SD*

OPC: No position pending further development of the record.

ISSUE 49: *Should FPL's estimated plant in service be reduced to reflect the actual capital expenditures implemented in 2009 on an annualized basis carried forward into the projected test Year(s) and for reductions of a similar magnitude?*

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year? SFHHA

OPC: No position pending further development of the record.

ISSUE 50: Are FPL's requested levels of Plant in Service appropriate?

A. For the 2010 projected test year in the amount of $28,288,080,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of $29,599,965,000?

Whether FPL's petition for a rate increase is prudent and necessary to make investments used and useful in the public service? (Saporito's version of issue)

OPC: First, plant adjustments are appropriate to reflect the appropriate jurisdictional factors as addressed in Issue 16. (Brown) Second, plant should be reduced by the projected $20 million grant available to FPL to reduce the costs of advanced meters and other smart grid investments. Third, 2010 plant should be reduced by $784 million to reflect FPL's actual capital expenditure reductions in 2009 annualized forward into 2010. As reflected on SLB-26 Revised, jurisdictional plant for each year is as follows: (Brown)

A. 2010: $27,918,324,000

B. 2011: $29,671,709,000

ISSUE 51: Are FPL's requested levels of accumulated depreciation appropriate?

A. For the 2010 projected test year in the amount of $12,590,521,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of $13,306,984,000?

OPC: Corresponding adjustments are appropriate as a result of the recommended adjustments in Issues 18-39 (depreciation) and Issue 50 (plant). As reflected on SLB-26 Revised, jurisdictional accumulated depreciation for each year is as follows: (Brown)

A. 2010: $12,177,112,000

B. 2011: $12,318,092,000

ISSUE 52: Is FPL's proposed adjustment to CWIP for the Florida EnergySecure Line (gas pipeline) appropriate?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 53: Has FPL removed any Environmental Cost Recovery Clause (ECRC) capital cost recovery items from the ECRC and placed them into rate base?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 54: Should FPL be permitted to record in rate base the incremental difference between Allowance for Funds Used During Construction (AFUDC) permitted by Section 366.93, F.S. for nuclear construction and FPL's most currently approved AFUDC for recovery when the nuclear plants enter commercial operation? *This issue will be decided in a different docket.*

OPC: No, this issue is not appropriate for this rate proceeding.

ISSUE 55: Are FPL's requested levels of Construction Work in Progress (CWIP) appropriate?

A. For the 2010 projected test year in the amount of $707,530,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of $772,484,000?

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows: (Brown)

A. 2010: $692,887,000
B. 2011: $750,265,000

ISSUE 56: Are FPL's requested levels of Property Held for Future Use appropriate?

A. For the 2010 projected test year in the amount of $74,502,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of $71,452,000?

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows: (Brown)

A. 2010: $70,461,000
B. 2011: $67,750,000

ISSUE 57: Should any adjustments be made to FPL's fuel inventories? *(may be removed pending staff review of discovery)*

OPC: No position pending further development of the record.

ISSUE 58: Is FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel appropriate?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: No. FPL's current accrual for end-of-life materials and supplies and last core nuclear fuel should be suspended and no increase should be allowed. FPL's decommissioning funds are over-funded to the extent that excess funds should be available to reimburse FPL for its end-of-life materials and supplies and last core nuclear fuel. In addition, the nuclear amortization should be discontinued and the December 31, 2009 balance transferred to the end-of-life materials and supplies and last core reserves. The revenue impact is $4.9 million in 2010, Exhibit SLB-23, and $4.3 million in 2011 Exhibit SLB-23. (Brown)

ISSUE 59: Should nuclear fuel be capitalized and included in rate base due to the dissolution of FPL Fuels, Inc.?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 60: Are FPL's requested levels of Nuclear Fuel appropriate?

A. For the 2010 projected test year in the amount of $374,733,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of $408,125,000?

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16. The appropriate jurisdictional amounts are as follows: (Brown)

A. 2010: $374,801,000

B. 2011: $408,196,000

ISSUE 61: Should the unamortized balance of the FPL Glades Power Park (FGPP) be included in rate base?

OPC: No position pending further development of the record.

ISSUE 62: Are FPL's requested levels of Working Capital appropriate?

A. For the 2010 projected test year in the amount of $209,262,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of $335,360,000?

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16 and further adjustments may be necessary pending the resolution of other working capital issues. The appropriate jurisdictional amounts for working capital are as follows: (Brown)

A. 2010: $167,602,000
B. 2011: $307,014,000

ISSUE 63: Is FPL's requested rate base appropriate?

A. For the 2010 projected test year in the amount of $17,063,586,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of $17,880,402,000?

OPC: No. As reflected on SLB-26 Revised, adjustments are necessary to reflect the appropriate jurisdictional factors as addressed in Issue 16 and further adjustments are necessary pending the resolution of other rate base issues. The appropriate jurisdictional amounts for rate base are as follows: (Brown)

A: 2010: $17,046,963,000
B: 2011: $18,886,842,000

COST OF CAPITAL

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 64: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Corresponding adjustments are appropriate to reflect plant, depreciation and other adjustments that impact the amount of deferred taxes expense during the test year, including the proper jurisdictional allocations. Based on OPC witness Brown's Exhibit SLB-26-Revised, deferred taxes should be as follows: (Brown)

A. 2010: $3,345,529,000 after an adjustment of $93,598,000.
B. 2011: $3,737,349,000 after an adjustment of $319,741,000.

ISSUE 65: *Should FPL be required to use the entire amount of customer deposits and ADIT related to utility rate base in its capital structure? SFHHA*

OPC: See OPC's position on Issue 69.

ISSUE 66: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: The appropriate cost rate should reflect the weighted average cost rate of investor sources of capital (long and short-term debt, equity). Corresponding adjustments are appropriate to reflect the proper jurisdictional allocation factors. Based on OPC witness Brown's Exhibit SLB-26-Revised, deferred taxes should be as follows: (Woolridge, Brown)

A. 2010: $63,939,000 at 7.41%.

B. 2011: $191,748,000 at 7.40%.

ISSUE 67: What is the appropriate cost rate for short-term debt?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: The appropriate cost of short-term debt is as follows: (Woolridge)

A. 2010: 2.27%.

B. 2011: 2.27%.

ISSUE 68: What is the appropriate cost rate for long-term debt?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: The appropriate cost of long-term debt is as follows (Woolridge):

A. 2010: 5.14%.

B. 2011: 5.14%.

ISSUE 69: Have rate base and capital structure been reconciled appropriately?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: No position at this time.

ISSUE 70: Has FPL appropriately described the actual 59% equity ratio that it proposes to use for ratemaking purposes as an "adjusted 55.8% equity ratio" on the basis of imputed debt associated with FPL's purchased power contracts?

OPC: No. Typically, when other electric utilities attempt to invoke the "S&P methodology" to adjust the capital structure to reflect S&P's treatment of power purchase contracts, they seek to add an increment of equity that they don't have on their books. FPL's actual equity ratio is so high that it seeks to make its actual 59% equity ratio appear lower than it really is. FPL argues that imputing $949 million of additional debt associated with power purchase contracts would yield an "adjusted equity ratio" of 55.8%. The argument is misleading, in that FPL proposes to use 59% for ratemaking purposes. The adjustment is unwarranted in any event. The Commission assures FPL of recovery of PPA costs through a cost recovery clause, so there is no risk that warrants FPL's argument. Besides, not every rating agency regards PPAs as risky: Moody's views them as potentially positive. (Woolridge)

ISSUE 71: What is the appropriate equity ratio that should be used for FPL for ratemaking purposes in this case?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: FPL proposes to use its actual 59% equity ratio. This is far too high, in view of the responsibility of an electric utility to minimize revenue requirements borne by customers by employing a reasonable amount of debt leverage in its capital structure. FPL's proposal is far higher than typical electric utilities, who maintain equity ratios in the mid- to high-40s. It is also higher than the level that FPL projects to carry in the near future. OPC witness Dr. Woolridge recommends the Commission use 54%, but cautions that this figure is higher than FPL's risk profile would warrant, meaning that the Commission should adjust the allowed return on equity downward to reflect the relatively low financial risk associated with a 54% equity ratio. (Woolridge)

ISSUE 72: *Do FPL's power purchase contracts justify or warrant any changes to FPL's capital structure in the form of imputed debt or equity for ratemaking purposes?*

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year? *(FIPUG and FRF)*

OPC: See Issue 71. OPC is willing to eliminate this issue as duplicative of Issue 71. (Woolridge)

ISSUE 73: What is the appropriate capital structure for FPL for the purpose of setting rates in this docket?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: For the appropriate capital structure amounts see Issue 81. (Woolridge)

ISSUE 74: *Has the fuel adjustment clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

OPC: Whereas the clause recovery mechanisms reduce the risk of FPL, we have made no separate adjustments to reflect this reduction in risk. However, OPC's 9.5% ROE recommendation reflects the low overall risk level of FPL relative to other utilities. See Issue 80. (Woolridge)

ISSUE 75: *Has the nuclear cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

OPC: See Issue 74. (Woolridge)

ISSUE 76: *Has the conservation cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

OPC: See Issue 74. (Woolridge)

ISSUE 77: *Has the environmental cost recovery clause decreased FPL's cost of equity and, if so, by how many basis points? City of SD*

OPC: See Issue 74. (Woolridge)

ISSUE 78: *Has the Generation Base Rate Adjustment reduced FPL's cost of equity and, if so, by how many basis points? City of SD*

OPC: See Issue 74. (Woolridge)

ISSUE 79: *Is it appropriate to adjust the equity cost rate for flotation costs? OPC*

OPC: No. In arriving at his flotation cost adjustment, Dr. Avera has not documented any equity flotation costs for FPL. (Woolridge)

ISSUE 80: What return on common equity should the Commission authorize in this case?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: FPL's request grossly overstates the return on equity currently required to attract equity capital on reasonable terms. Taking into consideration the myriad of factors that influence the cost of capital, including but not limited to the proper application of a discounted cash flow analysis, a reasonable premium above current risk-free rates required by equity investors, and FPL's low (relative to other electric utilities) risk—as exemplified by its high equity ratio and the fact that it receives 61% of its revenues through cost recovery clauses operating outside base rates, a fair and reasonable return on equity for FPL is 9.5%. (Woolridge)

ISSUE 81: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: The appropriate weighted average cost of capital for each respective test year is as follows (Woolridge, Brown):

Cost of Capital Per OPC	Company Total per Books	Specific Adjustments	Pro Rata Balance	Ratio	Cost Rate	Overall Rate of Return
2010						
Long Term Debt	$6,991,554	$0	$6,991,554	33.51%	5.14%	1.72%
Customer Deposits	$626,383	$0	$626,383	3.00%	5.98%	0.18%
Common Equity	$9,103,999	$0	$9,103,999	43.64%	9.50%	4.15%
Short Term Debt	$629,647	$0	$629,647	3.02%	2.27%	0.07%
Deferred Inc Tax	$3,351,931	$93,598	$3,445,529	16.52%	0.00%	0.00%
ITC	$63,939	$0	$63,939	0.31%	7.41%	0.02%
Total	$20,767,453	$93,598	$20,861,051	100.00%		6.14%

2011 Capital Structure Per OPC	Company Total per Books	Specific Adjustments	Pro Rata Balance	Ratio	Cost Rate	Overall Rate of Return
Long Term Debt	$7,670,689		$7,670,689	34.25%	5.14%	1.76%
Customer Deposits	$656,855		$656,855	2.93%	5.98%	0.18%
Common Equity	$9,559,882		$9,559,882	42.68%	9.50%	4.05%
Short Term Debt	$582,762		$582,762	2.60%	2.27%	0.06%
Deferred Inc Tax	$3,417,608		$3,417,608	16.69%	0.00%	0.00%
ITC	$191,748	$0	$191,748	0.86%	7.40%	0.06%
Total	$22,079,544	$0	$22,079,544	100.00%		6.11%

NET OPERATING INCOME

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 82: What are the appropriate inflation, customer growth, *and other trend factors* for use in forecasting?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 83: Should FPL's proposal to transfer capacity charges and capacity-related revenue associated with the St. John's River Power Park from base rates to the Capacity Cost Recovery Clause be approved?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. The net capacity charges should continue to be recovered in base rates and should not be moved to the CCRC.

ISSUE 84: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 85: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 86: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 87: Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 88: Should an adjustment be made to operating revenue to reflect the incorrect forecasting of FPL's C/I Demand Reduction Rider Incentive Credits and Offsets?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further development of the record.

ISSUE 89: Is an adjustment appropriate to FPL's Late Payment Fee Revenues if the minimum Late Payment Charge is approved in Issue 145?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. Late payment revenue should be increased to eliminate FPL's 30% behavior modification adjustment and 2% write-off; to average 2007/2008 late payments on percentage to total bills for behavior modifications; and reduce revenues for customers not subject to the minimum fee to reflect lower anticipated revenues for 2010. Other revenues per year should be increased by (Brown - Exhibit SLB-7):

A. 2010: $25,024,251, total $117,701,025.
B. 2011: $26,034,753, total $119,771,078.

FPL treated the proposed increases in Miscellaneous Service Fees as an offset to the revenue deficiency. (Brown)

ISSUE 90: Are any adjustments necessary to FPL's Revenue Forecast?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. Revenues should be increased by $46,500,182 in 2010 and $40,351,388 in 2011. See Issues 3 and 7. (Brown)

ISSUE 91: Are FPL's projected levels of Total Operating Revenues appropriate?

A. For the 2010 projected test year in the amount of $4,114,727,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of $4,175,024,000?

OPC: No. Revenues should be increased by $46,500,182 in 2010 and $40,351,388 in 2011. See positions 3 and 7. (Brown)

ISSUE 92: Has FPL made the appropriate adjustments to remove charitable contributions?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

OPC: No position pending evidence adduced at hearing.

ISSUE 93: Should an adjustment be made to remove FPL's contributions recorded above the line for the historical museum?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: OPC: Yes. Test year expenses should be reduced by $45,470 in 2010 and $46,764 in 2011 for contributions FPL made to the Historical Museum consistent with Commission practice. (Dismukes)

ISSUE 94: Should an adjustment be made for FPL's Aviation cost for the test year?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

OPC: No position pending evidence adduced at hearing.

ISSUE 95: Are <u>any adjustments necessary to reflect</u> the cost savings associated with AMI meters ~~appropriately included~~ in net operating income? *OPC Suggested rewording.*

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. If the cost associated with replacing the AMI meters is included in the test year, a corresponding adjustment should also be made to reflect the projected net savings associated with the replacement of those meters.

ISSUE 96: What is the appropriate level of Bad Debt Expense?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: FPL overstated the revenue projections used in its regression analysis for calculating its bad debt factors by using higher revenues than those reflected in its load forecast modeling and test year projections. Second, while FPL included increased costs for enhanced revenue collection and assistance programs, it did not impute the benefits of these programs to reflect a sufficient level of write-off savings. To determine the correct balance, first use FPL's updated net write-off forecast from December 1, 2008. The 2010 and 2011 test year net write-offs should then be reduced by the impacts of additional automatic bill payments and the incremental avoided write-offs (Exhibit SLB-5). After calculating the bad debt expense from the December 1, 2008 model, as adjusted, the net write-off percentage should be applied to test year revenues. Per Revised Exhibit SLB-6, the appropriate amount of bad debt expense for each year is as follows: (Brown)

A. 2010: Bad debt factor: 0.00183; bad debt expense: $18,645,786;
gross decrease to bad debt expense without transfer to clauses: 2,608,091.

B. 2011: Bad debt factor: 0.00146; bad debt expense: $15,193,637;
gross decrease to bad debt expense without transfer to clauses: $2,302,351

ISSUE 97: Should an adjustment be made to remove the portion of Bad Debt Expense associated with clause revenue that is currently being recovered in base rates and include them as recoverable expenses in the respective recovery clauses?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No, bad debt expense should continue to be recovered through base rates. (Brown)

A. 2010: Bad debt factor: 0.00183; bad debt expense: $18,645,786; gross decrease to bad debt expense without transfer to clauses: $2,608,091
B. 2011: Bad debt factor: 0.00146; bad debt expense: $15,193,637 gross decrease to bad debt expense without transfer to clauses: $2,302,351

ISSUE 98: Should an adjustment be made to advertising expenses?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

OPC: No position pending evidence adduced at hearing.

ISSUE 99: Has FPL made the appropriate adjustments to remove lobbying expenses?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

OPC: No position pending evidence adduced at hearing.

ISSUE 100: Are any adjustments necessary to FPL's payroll to reflect the historical average level of unfilled positions and jurisdictional overtime?

OPC: Jurisdictional payroll expenses should be reduced by $12.507 million in 2010 and $13.068 million in 2011 to recognize the historical average of unfilled positions. Jurisdictional payroll expenses should be increased by $3.262 million in 2010 and $3.414 million in 2011 to recognize additional overtime requirements as a result of the unfilled positions. (Brown)

ISSUE 101: Should FPL reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs?

OPC: No position pending evidence adduced at hearing.

ISSUE 102: Is it appropriate for FPL to increase its forecasted Operating and Maintenance Expenses due to estimated needs for nuclear production staffing?

OPC: No. Nuclear production O&M expenses should be reduced by $21.852 million (payroll, taxes and benefits) to eliminate the Company's request for increased nuclear staffing attrition and training requirements. (Agree with SFHHA witness Kollen's testimony.)

<u>ISSUE 103</u>: Should an adjustment be made to FPL's requested level of Salaries and Employee Benefits?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: See Issues 100-102, 104 and 105. (Brown)

<u>ISSUE 104</u>: *Should an adjustment be made to FPL's level of executive compensation?*

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year? (OPC)

OPC: Yes. Jurisdictional salaries should be decreased by $27.509 million in 2010 and $29.400 million in 2011 to remove the portion of executive compensation that is designed to benefit shareholders and the portion that exceeds target compensation levels. (Brown)

<u>ISSUE 105</u>: *Should an adjustment be made to FPL's level of non-executive compensation?*

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year? (OPC)

OPC: Yes. Jurisdictional salaries should be decreased by $5.661 million in 2010 and $6.640 million in 2011 to remove the portion of non-executive compensation that is designed to benefit shareholders and the portion that exceeds target compensation levels. (Brown)

<u>ISSUE 106</u>: Should an adjustment be made to Pension Expense?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year? *(staff may remove this issue after discovery is reviewed)*

OPC: No position pending evidence adduced at hearing.

<u>ISSUE 107</u>: Is a test year adjustment necessary to reflect FPL's receipt of an environmental insurance refund in 2008?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. Test year expenses should be reduced by $8.686 million in both 2010 and 2011, reflecting a 5-year amortization of the environmental insurance refund. The unamortized balance should be treated as a regulatory liability and included as an offset to rate base in the amount of $39.086 million in 2010 and $30.400 million in 2011. (Brown)

ISSUE 108: Is a test year adjustment appropriate to reflect the expected settlement received from the Department of Energy?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. The $9 million settlement payment from DOE in 2009 should be used to reduce actual fuel costs in the 2009 Fuel Cost Recovery Clause true-up. (Brown)

ISSUE 109: Should adjustments be made for the net operating income effects of transactions with affiliated companies for FPL?

OPC: Yes. See OPC's position on Issues 110 to 118. As addressed in Issue 18, the total operating income impact of affiliate adjustments is $13,844,866 (total company) for 2010 and $17,992,038 (total company) for 2011. (Dismukes)

ISSUE 110: Is *an adjustment appropriate to the allocation factor for FPL Group's executive costs? OPC*

OPC: Yes. To address the problems associated with the size-based nature of the allocation factor and the significant benefits the non-regulated affiliates derive from being associated with FPL and FPL Group, the Commission should distribute shared executive costs of FPL Group between FPL and the non-regulated affiliates with 50% assigned to each. The services provided by the FPL Group executives are generally more strategic in nature and benefit the regulated and non-regulated groups as a whole. The proportion of revenue or property, plant and equipment does not reflect the substantial benefits the non-regulated affiliates receive from these executives. This results in a reduction to test year expenses of $7,935,976 in 2010 and $7,906,276 in 2011. (Dismukes)

ISSUE 111: *Are any adjustments necessary to FPL's Affiliate Management Fee Cost Driver allocation factors? OPC*

OPC: Yes. The megawatts used to allocate the Power Generation Fee should be updated consistent with the Company's disclosures in its 2008 annual report and testimony filed in this proceeding. Cost drivers for which the Company projected no growth should be updated using the average growth in recent years. Test year expenses should be reduced by $2,284,350 in 2010 and $5,069,195 in 2011. (Dismukes)

ISSUE 112: *Are any adjustments necessary to FPL's Affiliate Management Fee Massachusetts Formula allocation factors? OPC*

OPC: Yes. The Company did not provide adequate support for its projections of the Massachusetts Formula components for 2010 and 2011. Ms. Dismukes performed an analysis of the growth of each component from 2008 to 2010. This was then compared to the Company's 2011 projections. In instances where the Company's 2011 projections lacked sufficient support and were not years where the growth appeared abnormal, the average growth from 2008 to 2010 was used. Using this approach, a reduction to 2011 test year expenses of $1,393,000 should be made. (Dismukes)

ISSUE 113: *Are any adjustments necessary to the costs charged to FPL by FiberNet? OPC*

OPC: Yes. The Commission should reduce the return on investment used in the determination of charges to FPL from FPL FiberNet to the return allowed for FPL. There is no need for FPL FiberNet to earn a return in excess of the return allowed for FPL. Using the rate of return recommended by Dr. Woolridge, test year expenses should be reduced by $1,182,224 in 2010 and 2011. (Dismukes)

ISSUE 114: *Should an adjustment be made to allow ratepayers to receive the benefit of FPLES margins on gas sales as a result of the sale of FPL's gas contracts to FPLES? OPC*

OPC: Yes. FPL failed to demonstrate the reasonableness of moving the gas margin revenues to its non-regulated affiliate and whether the gas contracts were sold at the higher of cost or market. Therefore, FPL's 2010 and 2011 test year revenues should each be increased as reflected on Exhibit KHD-13 to reflect these margins as belonging to FPL. (Dismukes)

ISSUE 115: *Is an adjustment appropriate to recognize compensation for the services that FPL provides to FLPES for billing on FPL's electric bills? OPC*

OPC: Yes. If FPL is billing on its electric bills for services that FPLES provides to FPL's residential, commercial, and governmental customers, FPLES should compensate FPL for the use of its personnel, billing systems, collection system, postage, paper and any other costs associated with billing the customer. The amount of the adjustment is pending further development of the record. (Dismukes)

ISSUE 116: *Is an adjustment appropriate to recognize compensation for the services that FPL provides to FLPES to the extent that FPL service representatives provide referrals or perform similar functions for FPLES? OPC*

OPC: Yes. To the extent that FPL service representatives provide referrals or perform similar functions for FPLES, FPL should be compensated for this invaluable service. The amount of the adjustment is pending further development of the record. (Dismukes)

(Issue left off of staff compiled list of issues)

ISSUE 116a: *Is an adjustment necessary to reflect the gains on sale of utility assets sold to FPL's non-regulated affiliates?* (This was OPC's Issue 58 on our preliminary list of issues and was not included in staff's original compilation.)

OPC: Yes. Consistent with Commission practice, the gain on sales of utility assets should be passed onto customers and amortized over five years. This increases test year revenue by $1,090,753 for 2010 and 2011. (Dismukes)

ISSUE 117: *Is an adjustment appropriate to increase power monitoring revenue for services provided by FPL to allow customers to monitor their power and voltage conditions? OPC*

OPC: Yes. Test year revenues should be increased by $236,336 for 2010 and $267,885 for 2011 to reflect the amount of power monitoring revenue projected by the Company. (Dismukes)

ISSUE 118: *What is the total operating income impact of affiliate adjustments, if any, that is necessary for the 2010 test year? OPC*

OPC: This issue is not necessary and can be deleted.

ISSUE 119: Should the Commission order notification requirements to report the future transfer of the FPL-NED assets from FPL to a separate company under FPL Group Capital?

OPC: Yes. The Commission should ensure that at the time of the transfer of FPL-NED assets to a separate company under FPL Group Capital the assets are transferred at the higher of cost or market as required by its affiliate transaction rules. The Commission should also order an independent appraisal as required by Rule 25-6.1351(d). (Dismukes)

ISSUE 120: Should an adjustment be made to FPL's requested storm damage reserve, annual accrual of $150 million, and target level of $650 million?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. The accrual should be eliminated for both test years. Current customers are already paying for past storms and should not be doubly burdened by unknown future storms. To charge current customers for both historical and projected storms would actually cause an inequity to current ratepayers. (Brown)

ISSUE 121: What adjustment, if any, should be made to the fossil dismantlement accrual?

OPC: See Issue 29.

ISSUE 122: What is the appropriate amount and amortization period of Rate Case Expense?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending evidence adduced at hearing.

ISSUE 123: Should an adjustment continue to be made to Administrative and General Expenses to eliminate "Atrium Expenses" per Order No. 10306, Docket No. 810002-EU?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. the atrium has been retired and the adjustment is no longer necessary.

ISSUE 124: Should FPL's request to move payroll loading associated with the Economic Cost Recovery Clause (ECRC) payroll currently recovered in base rates to the ECRC be approved?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. These costs are appropriately recovered in base rates and should not be transferred to the ECRC.

ISSUE 125: Should an adjustment be made to remove payroll loadings on incremental security costs that are currently included in base rates and include them in the Capacity Cost Recovery Clause?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. These costs are appropriately recovered in base rates and should not be transferred to the CCRC.

ISSUE 126: Should an adjustment be made to move the incremental hedging costs that are currently being recovered through the Fuel Cost Recovery Clause to base rates?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. The Commission should deny FPL's request and continue to review the prudence and reasonableness of FPL's hedging costs during the annual Fuel Clause proceeding.

ISSUE 127: Should the Commission adjustment in FPL's 1985 base rate case, Docket No. 830465-EI, for imputed revenues associated with orange groves be reversed?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. The adjustment is no longer necessary as FPL leases the property and has included the lease revenue in operating revenues.

ISSUE 128: Is FPL's requested level of O&M Expense appropriate?

A. For the 2010 projected test year in the amount of $1,694,367,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of $1,781,961,000?

OPC: No. The appropriate amount of O&M Expenses for each respective test year should be as follows (Brown - Exhibit SLB-26-Revised):

A. 2010: $1,507,771,000
B. 2011: $1,594,440,000

ISSUE 129: Should FPL be permitted to collect depreciation expense for its new Customer Information System prior to its implementation date?

OPC: No position pending evidence adduced at hearing.

ISSUE 130: Should FPL's depreciation expenses be reduced for the effects of its capital expenditure reductions?

OPC: Yes, consistent with the corresponding reductions to projected plant.

ISSUE 131: Should any adjustment be made to Depreciation Expense?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. The appropriate amount of depreciation expense for each respective test year should be as follows (Brown - Exhibit SLB-26-Revised):

A. 2010: $513,606,000
B. 2011: $570,447,000

ISSUE 132: Should an adjustment be made to Taxes Other Than Income Taxes for the 2010 and 2011 projected test years?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. The appropriate amount of Taxes Other Than Income Taxes for the respective test years is as follows (Brown- Exhibit SLB-26-Revised):

A. 2010: $350,220,000

B. 2011: $392,891,000

ISSUE 133: Should an adjustment be made to reflect any test year revenue requirement impacts of "The American Recovery and Reinvestment Act" signed into law by the President on February 17, 2009?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: No position pending further evidence adduced at hearing.

ISSUE 134: Should an adjustment be made to Income Tax expense?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: Yes. Adjustments are appropriate to income taxes as a result of OPC's recommended adjustments to rate base, capital structure and operating income. The appropriate amounts for income taxes per year are as follows (Brown-Exhibit SLB-26-Revised):

A: 2010: $549,409,000

B. 2011: $479,803,000

ISSUE 135: Is FPL's projected Net Operating Income appropriate?

A. For the 2010 projected test year in the amount of $725,883,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of $662,776,000?

OPC: No. The appropriate net operating income is as follows (Brown- Exhibit SLB-26-Revised):

A: 2010: $1,208,722,000

B. 2011: $1,144,810,000

REVENUE REQUIREMENTS

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 136: What are the appropriate revenue expansion factors and the appropriate net operating income multipliers, including the appropriate elements and rates, for FPL?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: The appropriate operating income multiplier for each test year is as follows (Brown- Exhibit SLB-26-Revised):

OPC Recommended	2010	2011
Revenue Requirement	100.0000%	100.0000%
Regulatory Assessment Rate	0.0720%	0.0720%
Bad Debt Rate	0.1830%	0.1460%
Additional Late Payments	-0.0866%	-0.0866%
Net before Income Taxes	99.8316%	99.8686%
State Income Taxes	5.4907%	5.4928%
Federal Income Taxes	33.0193%	33.0315%
Revenue Requirement	61.3215%	61.3443%
Net Operating Income Multiplier	1.63075	1.63014

ISSUE 137: Is FPL's requested annual operating revenue increase appropriate?

A. For the 2010 projected test year in the amount of $1,043,535,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of $247,367,000?

OPC: No. Not only is no revenue increase warranted, base rate revenues should be decreased as follows (Brown- Exhibit SLB-26-Revised):

OPC Recommended	2010	2011
Revenue Reduction at Proposed Return	($1,308,054)	($1,290,500)
Less Increase in Miscellaneous Service Fees	$25,024	$26,035
Revenue Reduction for Sales Revenues	($1,333,078)	($1,316,535)

ISSUE 138: *Whether FPL's rates should be decreased by $1.3 billion dollars? Saporito*

OPC: See Issue 137.

COST OF SERVICE AND RATE DESIGN ISSUES

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 139: Has FPL correctly calculated revenues at current rates for the 2010 and 2011 projected test year?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

OPC: No position.

ISSUE 140: Should FPL use a minimum distribution cost methodology (utilizing either a "zero intercept" or a "minimum size" approach) to allocate distribution plant costs to rate classes?

OPC: No position.

ISSUE 141: What is the appropriate Cost of Service Methodology to be used to allocate base rate and cost recovery costs to the rate classes?

OPC: No position.

ISSUE 142: How should the change in revenue requirement be allocated among the customer classes?

OPC: No position.

ISSUE 143: Has FPL properly adjusted revenues to account for unbilled revenues?

OPC: No position.

ISSUE 144: Are FPL's proposed service charges for initial connect, field collection, reconnect for non-payment, existing connect, and returned payment charges appropriate?

OPC: No position.

ISSUE 145: Is FPL's proposal to increase the minimum late payment charge to $10 appropriate?

OPC: No position.

ISSUE 146: Are FPL's proposed Temporary Service Charges appropriate? (4.030)

OPC: No position.

ISSUE 147: Is FPL's proposed increase in the charges to obtain a Building Efficiency Rating System (BERS) rating appropriate? (4.041)

OPC: No position.

ISSUE 148: Are FPL's proposed termination factors to be applied to the total installed cost of facilities when customers terminate their Premium Lighting or Recreational

Lighting agreement prior to the expiration of the contract term appropriate? (8.722 and 8.745)

OPC: No position.

ISSUE 149: Are FPL's proposed charges under the Street Lighting Vandalism Option notification appropriate? (8.717)

OPC: No position.

ISSUE 150: Is FPL's proposed Present Value Revenue Requirement multiplier to be applied to the installed cost of premium lighting facilities under rate Schedule Premium Lighting (PL-1) and the installed cost of recreational lighting facilities under the rate Schedule Recreational Lighting (RL-1) to determine the lump sum advance payment amount for such facilities appropriate? (8.720 and 8.743)

OPC: No position.

ISSUE 151: Is FPL's proposal to close the Wireless Internet Rate (WIES) schedule to new customers appropriate?

OPC: No position.

ISSUE 152: Should FPL's proposal to close the relamping option on the Street Lighting (SL-1) and Outdoor Lighting (OL-1) tariffs for new street light installations be approved? (8.716 and 8.725)

OPC: No position.

ISSUE 153: Should FPL's proposal to remove the 10 year and 20 year payment options from the PL-1 and RL-1 tariff be approved? (8.720 and 8.743)

OPC: No position.

ISSUE 154: Is FPL's proposed monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider appropriate? (8.820)

OPC: No position.

ISSUE 155: Is FPL's proposed monthly fixed charge carrying rate to be applied to the installed cost of customer-requested distribution equipment for which there are no tariffed charges appropriate? (10.010)

OPC: No position.

ISSUE 156: Is FPL's proposed Monthly Rental Factor to be applied to the in-place value of customer-rented distribution substations to determine the monthly rental fee for such facilities appropriate? (10.015)

OPC: No position.

ISSUE 157: Are FPL's proposed termination factors to be applied to the in-place value of customer-rented distribution substations to calculate the termination fee appropriate? (10.015)

OPC: No position.

ISSUE 158: Is FPL's proposed minimum charge for non-metered service under the GS rate appropriate?

OPC: No position.

ISSUE 159: What are the appropriate customer charges?

OPC: No position.

ISSUE 160: What are the appropriate demand charges?

OPC: No position.

ISSUE 161: What are the appropriate energy charges?

OPC: No position.

ISSUE 162: What are the appropriate lighting rate charges?

OPC: No position.

ISSUE 163: What is the appropriate level and design of the charges under the Standby and Supplemental Services (SST-1) rate schedule?

OPC: No position.

ISSUE 164: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

OPC: No position.

ISSUE 165: Is FPL's design of the HLFT rates appropriate?

OPC: No position.

ISSUE 166: Is FPL's design of the CILC rate appropriate?

OPC: No position.

ISSUE 167: *What should the CDR credit be set at? FIPUG*

OPC: No position.

ISSUE 168: What is the appropriate method of designing time of use rates for FPL? (AFFIRM Issue)

OPC: No position.

ISSUE 169: *Has FPL carried its burden of proof as to the legality and appropriateness of the proposed commercial time of use rates? AFFIRM*

OPC: No position.

ISSUE 170: *Should FPL be directed to develop a prepayment option in lieu of monthly billing for those customers who can benefit from such an alternative? (OPC Issue)*

OPC: No position.

ISSUE 171: *What is a fair and reasonable rate for the customers of Florida Power and Light Company? AGO*

OPC: No position.

ISSUE 172: What is the appropriate effective date for FPL's revised rates and charges

OPC: No position.

OTHER ISSUES

ISSUE 173: Should an adjustment be made in base rates to include FPL's nuclear uprates being placed into service during the projected test years if any portion of prudently incurred NCRC recovery is denied?

A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

OPC: No. These issues should not be addressed in this docket.

ISSUE 174: *Should FPL be required to reduce base rates on January 1, 2014, to recognize the change in the separation factor resulting from the increased wholesale load served under the Lee County Contract? (Staff)*

OPC: Yes.

ISSUE 175: *Should an adjustment be made to FPL's revenue forecast as a result of the PSC's decision in the DSM Goals Docket, Docket No. 080407-EG? If so, what adjustment should be made? (FPL)*

OPC: No, the Commission cannot make an adjustment because: (1) the Commission's decision in the DSM Goals Docket is scheduled to be made after evidence is taken and briefs are filed in this case; (2) it is not known when the Commission's order in the DSM docket would become final; (3) many parties to this proceeding are not parties to the DSM docket; and (4) the effect of any decisions in the DSM docket on FPL's 2010 and 2011 revenues is too speculative for ratemaking purposes.

ISSUE 176: Should FPL be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission's findings in this rate case?

OPC: Yes.

ISSUE 177: Should this docket be closed?

OPC: No position.

5. STIPULATED ISSUES:

None.

6. PENDING MOTIONS:

None.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

None.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 6th day of August, 2009.

Respectfully submitted,

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s/Joseph A. McGlothlin
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CERTIFICATE OF SERVICE
DOCKET NO. 080677-EI & 090130-EI

I HEREBY CERTIFY that a copy of the foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by U.S. Mail on the 6th day of August, 2009.

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