Ruth Nettles

080677-EI
090130-EI

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Subject: Docket 08-0677 AIF Post Hearing brief

Attachments: AIF POST HEARING Brief.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

a. The name, address, telephone number and email for the person responsible for the filing is:

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b. This filing is made in Docket No. 080677-EI, In re: Petition for increase in rates by Florida Power & Light Company; and Docket No. 090130-EI, In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

c. The document is filed on behalf of Associated Industries of Florida.

d. The total pages in the document are 56 pages.

e. The attached document is AIF's Post-Hearing Statement of Issues and Positions and Post-Hearing Brief.

ASSOCIATED INDUSTRIES OF FLORIDA
The Voice of Florida Business Since 1920

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for increase in rates by Florida Power & Light Company	)))	Docket No. 080677–EI
In Re: 2009 depreciation and dismantlement study by Florida Power & Light Company	)))	Docket No. 090130-EI Filed: August 7, 2009

ASSOCIATED INDUSTRIES OF FLORIDA'S POST-HEARING STATEMENT OF ISSUES, POSITIONS AND ARGUMENTS

COMES NOW, Intervenor Associated Industries of Florida ("AIF"), pursuant to Order No. PSC-09-0159-PCO-EI, and respectfully files its post-hearing statement with the Public Service Commission as follows:

I. INTRODUCTION AND STATEMENT OF BASIC POSITION

The Public Service Commission should approve FPL's forward-thinking efforts to invest in electric infrastructure. FPL's proposal will make Florida's infrastructure stronger, more storm resistant, smarter, better controlled, more reliable, more fuel efficient and more environmentally friendly. Moreover, AIF also views FPL's investments as a much-needed Florida economic stimulus package providing direct employment for many Florida residents as well as numerous business opportunities for many Florida businesses, including AIF members.

AIF supports a rate increase for FPL and the investments made possible in Florida for several reasons. Today's economy presents unprecedented challenges to everyone – government, private sector businesses, communities and families. Leaders could easily avoid or delay making tough decisions on a myriad of issues by simply deciding that now is not the right time for any given change. But such convenient responses to these challenging situations would prove to be short sighted and undermine the duties that leaders owe to those they serve.

Intervenors say that in this economy, now is not the right time to impose or consider a rate request and that the timing is the "basis" of their challenge – but that really is not the case. The truth is that these Intervenors would, and do, present challenges to rate increases in every single case. If we were living today in the most prosperous economic times, they would still object to this rate increase.

This PSC must remember that its duties do not go on reprieve when times are tough and their decisions seem unpopular. Rather, its duties are to guarantee that the non-competitive regulated utility companies deliver safe and reliable service to the customers in exchange for payment of a rate that completely and adequately covers the company's cost of delivering that service.

It is undisputed that FPL is a pillar of Florida's business community. Its residential rates are the very lowest in the State of Florida. Their customers who enjoy this low rate, also receive every advantage possible for Florida citizens. FPL's customer service and reliability are consistently the very best in the state and rank highest among utility companies across the nation. FPL's investment in Florida's economic prosperity, infrastructure, jobs, research, efficiency, conservation and communities is unparalleled by any other Florida company in any industry.

FPL has not abandoned its commitment to the people of this state in making a rate filing at this time. Contrary to what other intervenors may dismissively assert, FPL has absolutely and obviously considered the economic environment in making this request. Although the base rate will increase, FPL's proposal takes advantage of the efficiencies it has honed for years and also proposes that in these dire economic times, that the average household bill for 2010 will actually decrease. The bottom line dollar amount on a family's bill is what really matters to them – and that is what FPL has taken care of first and foremost with this request. Indeed, the very first exhibit placed on an easel in the Commission's hearing room was Exhibit #38 which showed exactly how much the 2010 bills would DECREASE under the FPL plan. The infrastructure investments FPL has made in this state have developed and cultivated industry leading efficiencies and deliverables that enable it to use less fuel while still delivering adequate, even superior, service in a reliable and safe manner. If the rate request is not approved, Florida households will not see those decreases. And yet, the intervenors will declare a victory. A victory for not achieving a decrease for customers during what they repeatedly label as these challenging and difficult economic times.

Another significant impact of FPL's rate request that should be approved and applauded by the Commission is its commitment to provide high wage jobs to thousands of Floridians. FPL is consistently ranked as one of the best places to work in the country by national human resources organizations and its plans anticipate expanding its workforce in the near future. Intervenors spent significant efforts questioning whether creation of these new jobs was in the best interest of Florida's citizens and FPL customers. Such a challenge is certainly hypocritical of some of their other assertions and at best is insulting to FPL and the entire Florida business community. Florida has about a million unemployed individuals today and our state leaders are looking for every opportunity they can find to speed and enhance job creation and economic development throughout the state in the private sector. Florida needs companies to remain and relocate here so that jobs can be restored. FPL is an industry leading national company, headquartered within our own state boundaries whose business plan includes some of that much needed job creation; yet some questioned whether that job creation was prudent in these economic times. The Commission ought to be outraged that one would even dare to ask such questions. Not only is job creation prudent, it ought to be applauded and held as an example for all Florida businesses to follow. These jobs are desperately needed to lower the unemployment rate and put Floridians back to work in good paying jobs with stable companies.

In addition to the shorter term beneficial economic effects of building new and improved electric infrastructure, these investments will provide longer-term advantages for all of AIF's members and all Floridians. FPL is proposing through its requested base rate increase to make nearly $16 billion in new capital investments in Florida in order to continue providing such service. Construction and operation of the improved facilities proposed by FPL, as well as FPL's continued provision of reliable, affordable electric service, will provide essential support AIF's members need in order to maintain and expand their own businesses that in turn employ many more thousands of Florida residents.

In addition to being the lowest cost in the state, FPL's electric rates are also lower than those of utilities in most major metropolitan areas within the United States. This is undoubtedly a key factor considered by businesses when deciding where to invest and where to establish operations that employ people. Another key factor that businesses look to in evaluating their forums of operations as well as their investment options is the regulatory environment. Generally, Florida has basked in a favorable light for several decades due to our desirable geography and the stable business environment it has offered businesses in the past. However, recent state challenges like hurricanes, decreasing state revenues and political changes have many business leaders across the country questioning if Florida's legal, regulatory and legislative environments are quickly shifting to the detriment of their operations. A business's ability to flourish is significantly diminished when frequent and significant regulatory requirements hamper its ability to deliver goods and services to their customers at the prices they are expecting and are willing to pay. Similarly, investors consider the regulatory environment of a potential investment when assessing the risk of any investment. Unexpected and unprecedented regulatory changes do not signal stability and predictability that investors require when initiating or continuing their investments. If approved, the rate proposal presented by FPL will provide immediate relief to its customers as well as long term economic advantages to the entire state.

Fundamentally, AIF's members require adequate, reasonably priced electricity in order to conduct their business consistently with the needs of their customers and ownership. AIF endorses environmental and economic regulatory policies that create a stable investment climate so that electric utilities, such as FPL, can build and operate energy generation, transmission and distribution systems to meet Florida's energy needs. To this end, AIF encourages the Florida Public Service Commission to ensure that through the rates granted in this proceeding, FPL remains competitive in the current uncertain capital markets and is able to attract the investor dollars needed to support the beneficial investments in Florida described herein.

II. STATEMENTS OF SPECIFIC POSITIONS & ARGUMENTS ON ISSUES AS IDENTIFIED IN PREHEARING ORDER

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?

POSITION: **YES.** AIF supports FPL's position that the Commission has the legal authority to approve a base rate increase using a 2010 projected test year.

ARGUMENT:

The Commission's authority to use a projected test year has been recognized expressly by the Florida Supreme Court and has been incorporated into Commission rules. For example, the Florida Supreme Court expressly recognized the Commission's authority to use projected test years in *Southern Bell Tel. & Tel. Co. v. Public Service Commission*, 443 So.2d 92 (Fla. 1983). In that case, the Office of Public Counsel contested the use of a projected test year in a rate proceeding arguing it departed from the essential requirements of law. The Court held that "[n]othing in the decision of this court or any legislative act prohibits the use of a projected test year by the Commission in setting a utility's rates." Id at 97.

In addition, in Rule 25-6.140(1)(a), F.A.C., the Commission explicitly recognizes the use of projected test years for ratemaking purposes. The rule requires a company, in commencing a rate proceeding, to give sixty days notice whether it will use an historical or projected test year in the proceeding.

Opponents of the rate increase suggest only that the 2010 projected test year is improper because of alleged uncertainty in the future. None of their witnesses address the legal authority of the Commission to utilize the 2010 test year. On the other hand, Commission precedent clearly authorizes base rate increases appropriately based on future test year projections. Given the absence of credible evidence to suggest otherwise, the Commission clearly has both the discretion and the authority to use and should use the 2010 projected test year as suggested by FPL.

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

POSITION: **Yes.** AIF supports FPL position

ARGUMENT:

The current rates established by the 2005 settlement agreement were designed to address requirements through the end of 2009. The requested rate relief is based upon appropriate adjustments made to historic data to reflect results for 2010. As shown in the MFRs and testimony presented by FPL Witness Ousdahl, absent the requested relief, the return on equity will fall to 4.7 percent in 2010. TR 3717 Use of a 2010 test year also coincides with the effective date of FPL's 2009 depreciation and dismantlement studies.

FPL Witness Barrett provides the most authoritative details of the 2010 test year for use in the base rate increase. TR 1223-1230 Throughout the rate proceedings, opponents frequently questioned the reliability of the test year only from the standpoint of certainty. They argued that only absolute historic data collected from the company's actual experience in previous years should be permitted. Such assertions are inconsistent with opponents' positions on other issues in which they argue that future performance must be anticipated to achieve their desired outcomes.

Regardless, the statistical modeling and methodology used by FPL in developing the 2010 test data are sound and without identifiable error. Their modeling has shown to be more accurate than other estimates used by government agencies throughout the state.

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

POSITION: **YES.** AIF supports FPL's position

ARGUMENT:

Capital expenditures, O&M costs, and income analyses developed through normal budgeting processes were used to provide appropriate forecast results. TR 1250 [Barrett direct at pp. 12-14] Data from these forecasts provide reliable predictions. For example, FPL Witness Barrett explained that FPL's actual net income results varied by only 2.3 percent from budget forecasts over the past five years. TR 1250, 1291-1293 [Barrett direct at p. 14.]

Further, FPL Witnesses Morley revealed the details of the FPL forecasting which included a declining rate of customer growth through 2010 with an anticipated rebound to 1.3% in 2011. TR 970-972 She further explained that FPL's year to date variance is less than 0.1% of its projections, which is strikingly better than the forecasts of the University of Florida and those proposed by OPC. TR 5960-61.

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?

POSITION: **Yes.** AIF supports FPL's position

ARGUMENT:

Yes, the Commission has the power to approve prospective increases. This was recognized expressly by the Florida Supreme Court in *Floridians United for Safe Energy, Inc. v. Public Service Commission*, 475 So.2d 241 (Fla. 1985). In that case, the Court held that, in ratemaking, "it is appropriate for PSC to recognize factors which affect future rates and to grant prospective rate increases based on these factors."

Moreover, section 366.076(2), Florida Statutes, expressly authorizes the Commission to provide for "incremental adjustments in rates for subsequent periods." The Commission adopted Rule 25-6.0425, F.A.C., pursuant to this statutory provision. It states that "the Commission may in a full revenue requirements proceeding approve incremental adjustments in rates for periods subsequent to the initial period in which new rates will be in effect."

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

POSITION: **YES.** AIF supports FPL's position

ARGUMENT:

As shown by the MFRs and testimony of FPL Witness Ousdahl, absent both the 2010 and 2011 requested relief the 2011 ROE is projected to fall to 3.1 percent. If only the 2010 relief were granted, the ROE would fall in 2011 to 10.7 percent which has been demonstrated to be less than FPL's cost of capital. TR 3717

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

POSITION: **YES.** AIF supports FPL's position

ARGUMENT:

Yes, as demonstrated by FPL Witness Barrett, a test year using this time period is fully supported. TR 1250 Additionally, without this adjustment, earnings will deteriorate significantly and drop below FPL's cost of equity.

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

POSITION: **YES.** AIF supports FPL's position

ARGUMENT:

The forecasts are reasonable and reliable. They are based upon judgments of internal and external subject matter experts. TR 1250 [Barrett direct at p. 20.] The company used the same forecasting process for 2011 as it used for the 2009 budget. TR 1250 [Barrett rebuttal at p. 3]

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?

POSITION: **Yes.** AIF supports FP's L position that the Commission should approve a GBRA.

ARGUMENT:

The Commission has considerable latitude and discretion in ratemaking. For example, *in Citizens v. Public Service Commission*, 425 So. 2d 534, 548 (Fla. 1982) the Florida Supreme Court stated that it has consistently recognized the broad legislative grant of authority which . . .[ratemaking Sections 365.06(2) and 366.05(1), F.S.] confer and the considerable license the Commission enjoys as a result of this delegation."

The GBRA has been used successfully by the Commission in preventing regulatory lag while allowing substantial new generating sources, such as FPL's Turkey Point 5, to be integrated into rates. Its use has avoided costly rate case proceedings while fairly assessing appropriate rates for the new generation base. Significant new generation in the FPL system is expected to be brought on line in the foreseeable future.

Use of the GBRA will allow the integration of this new generation base while avoiding significant rate case expenses and demand on Commission resources. As FPL Witness Ousdahl explained, it is subject to true up using actual costs and, as such, simply recovers the cost of the asset without creating an over earnings situation. Hence, it provides great benefits to the consumer by avoiding back to back rate cases and unnecessary rate case expense without leading to over earning by the company. TR 3732, 4012-4013.

The GBRA mechanism is a tried and true means of achieving efficiency in Florida's rate process. Opponents placed much attention on the costs born by the company in putting on this rate case and criticized FPL for the great expense it incurred in so doing. In virtually the same breath, however, opponents belittled the company's assertion that avoiding those expenses in the future by using a GBRA rather than requiring a rate case was a desirable outcome. An equal if not greater concern of the Commission should be the enormous burden the administration of a full rate case that is placed upon all Florida taxpayers – not just FPL and FPL customers. The hearings in this case took well over 100 hours and required almost 7000 pages of transcripts to record. The Commission and staff resources were significantly stretched, in a time when state revenues have forced all state administrative agencies to reduce workforce and services. An alternative means of providing the same required oversight to the companies regulated by the Commission, like that which the GBRA guarantees, should be readily adopted and approved.

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

POSITION: AIF has no position.

ISSUE 10: *Intentionally Blank*

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

POSITION: AIF has no position.

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??

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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

POSITION: AIF has no position.

QUALITY OF SERVICE

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

POSITION: **Yes.** AIF supports FPL's position that its quality and reliability of electric service are better than adequate.

ARGUMENT:

FPL provides a superior level of quality and service at costs below industry average. FPL has been recognized for providing superior service by independent groups such as PA Consulting Group, which is a management, systems and technology consulting firm. It benchmarks FPL in the first quartile. TR 1570-1572 [Santos direct at p. 4] FPL has been recognized by other independent groups such as Chartwell, an information services company that recognized FPL for best practices in 2006. TR 1570-1572 [Santos direct at p 7.]

FPL Witnesses Santos and Reed attest to this. Despite weak attempts by FRF to wave around some popularity study, FPL is ranked the highest in all nationally recognized and credible performance evaluations. FPL Witness reed explained that any other arguments to the contrary are nothing more than a mischaracterization of a non-scientific poll. TR 6517-6521 Absent any credible evidence to the contrary, the Commission should rule that FPL's quality and reliability are second to none.

DEPRECIATION STUDY

ISSUE 18: *Intentionally Blank*

ISSUE 19A: What are the appropriate depreciation rates, capital recovery schedules, and amortization schedules?

POSITION: AIF supports FPL's position. The appropriate depreciation rates, capital recovery schedules and amortization schedules to be used in this case are those filed with the Commission by FPL on March 17, 2009.

ARGUMENT:

FPL Witness Barrett explained the elements of depreciation FPL used in creating its filing for the Commission should be approved. TR 1250, 1272-1275. Further, the testimony of FPL Witness Hardy clearly and unequivocally demonstrated that FPL's depreciation studies, including but not limited to its theoretical depreciation reserves are appropriate and reliable. Other Intervenor witnesses and advocates contend or otherwise argue that life cycles and accounting methodologies utilized by FPL are improper, but their opinions fail on several grounds. TR 6306-6309 Accordingly, the appropriate depreciation rates are those presented by FPL.

ISSUE 19B: Is FPL's calculation of the average remaining life appropriate?

POSITION: Yes. FPL's calculation of the average remaining life is appropriate.

ARGUMENT:

FPL Witness Hardy best articulated the basis for FPL's remaining life estimates based on the technology and experience the Company has successfully pioneered in electric generation over the past decades. TR 6275-6278. Intervenors argue, without presenting credible contrary evidence or expert testimony, that simple printed documentation from manufacturers should govern the applicable life cycles. Such a simplistic approach to determining the true life cycle of FPL's plants overlooks and ignores the reality that FPL pioneered the technology of those generating units and provided the manufacturer with the ability to create and market such products. Accordingly, FPL is the foremost expert on maintenance and life cycles, and all other opinions should be summarily dismissed.

ISSUE 19C: What are the appropriate depreciation parameters (remaining life, net salvage percentage and reserve percentage) and resulting rates for each production unit (including but not limited to, coal, steam, combined-cycle, etc)?

POSITION: AIF supports the position of FPL incorporated into the depreciation study FPL filed on March 17, 2009, subject to the adjustments made in FPL Witness Ousdahl's Exhibit KO-16.

ARGUMENT:

FPL Witness Hardy best articulated the basis for FPL's remaining life estimates based on the technology and experience the Company has successfully pioneered in electric generation over the past decades. TR 6275-6278 Intervenors argue, without presenting credible contrary evidence, that simple printed documentation from manufacturers should govern the applicable life cycles. Such a simplistic approach to determining the true life cycle of FPL's plants overlooks and ignores the reality that FPL pioneered the technology of those generating units and provided the manufacturer with the ability to create and market such products. Accordingly, FPL is the foremost expert on maintenance and life cycles, and all other opinions should be summarily dismissed.

ISSUE 19D: What are the appropriate depreciation parameters (remaining life, net salvage percentage and reserve percentage) and resulting rates for each transmission, distribution and general plant account?

POSITION: AIF supports the position of FPL incorporated into the depreciation study FPL filed on March 17, 2009, subject to the adjustments made in FPL Witness Ousdahl's Exhibit KO-16.

ARGUMENT:

The testimony of FPL Witness Hardy clearly demonstrates that above any other entity, FPL itself is in the best situation and is best situated to establish its own depreciation periods given it is the controller of the plants and generation. Reliance on an outside minimal observer with no recent utility experience and no development, creation or other pioneering expertise that even remotely approaches the vast technology that FPL has implemented to deliver power to Florida homes and businesses in the most efficient way possible while meeting their customers demands is ludicrous. TR 6306-6309

Intervenors argue, without presenting credible contrary evidence, that simple printed documentation from manufacturers should govern the applicable life cycles. Such a simplistic approach to determining the true life cycle of FPL's plants overlooks and ignores the reality that FPL pioneered the technology of those generating units and provided the manufacturer with the ability to create and market such products. Accordingly, FPL's positions on this issue should be approved.

ISSUE 19E: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FPL's data, and a comparison of theoretical reserves to the book reserves, what are the resulting imbalances?

POSITION: AIF supports FPL's position that the FPL theoretical reserve imbalances total $1.245 billion as submitted to the Commission by FPL in its depreciation study filed in March 2009.

ARGUMENT:

FPL Witnesses Deason and Davis best explained the impact and significance of the theoretical depreciation reserve and clarified the misunderstanding of this account by OPC. As FPL Witness Davis explained, depreciation is an accounting measure and is not cash available for use in other means. Reversing those depreciation charges will reduce cash available and will result in need for increased rates. This treatment does not reallocate company funds that would reduce the amount requested in the base rate increase before the Commission. Witness Deason thoroughly reviewed the Commission's historic challenges and handling of depreciation in other ways and the consequences resulting from differing methods. TR 6720-6812. No other witness provided any insight or expert opinion that any different methodology should be used. Accordingly, the Commission should approve the FPL proposal on this issue.

ISSUE 19F: What, if any, corrective reserve measures should be taken with respect to the imbalances identified in Issue 19E?

POSITION: AIF supports FPL's position that the FPL theoretical reserve surplus should be addressed through the Commission's long standing policy of using the remaining life depreciation methodology. Such use decreases annual revenue requirements by $216 million.

ARGUMENT:

FPL Witnesses Davis and Hardy best explained the value of the theoretical depreciation reserve and clarified the misunderstanding of this account by OPC. As FPL Witness Davis explained, depreciation is an accounting measure and is not cash available for use in other means. Reversing those depreciation charges will reduce cash available and will result in need for increased rates. This treatment does not reallocate company funds that would reduce the amount requested in the base rate increase before the Commission.

Further, FPL Witness Deason explained why the Commission previously departed from this methodology when the state was considering deregulation and companies were positioning themselves for a competitive environment. Accordingly, the FPL position should be approved.

ISSUE 19G: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

POSITION: AIF supports FPL position of January 1, 2010

ARGUMENT:

The implementation date for revised depreciation rates, capital recovery schedules and amortization schedule should be established as presented by FPL throughout the hearing and other presentation of evidence. There was no other implementation date proposed through evidence or testimony at the hearings.

ISSUES 20-39: *Intentionally Blank*

FOSSIL DISMANTLEMENT COST STUDY

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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?

POSITION: Yes. AIF supports FPL's position

ARGUMENT:

FPL Witness Ousdahl clearly outlined the elements it included in its fossil dismantlement study filed with the Commission on March 17, 2009. TR 3636 Intervenor witnesses Pous and Pollock provided no reason or basis for disallowance of the dismantlement study as presented, including restoration of generation sites to "Greenfield" status upon retirement. TR 3830

Accordingly, there is no record evidence or testimony providing support to the position that the dismantlement projects should occur in any manner other than that presented by FPL.

ISSUE 44: In future dismantlement studies filed with the Commission, should FPL consider alternative demolition approaches?

POSITION: AIF has no position.

RATE BASE

ISSUE 45: Intentionally Blank

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?

POSITION: **No.** AIF supports FPL's position that its projected levels of working capital are appropriate as presented and should not be adjusted for the factors listed in this issue.

ARGUMENT:

FPL Witness Ousdahl presented FPL's working capital projections in her testimony, with adjustments made subsequent to the initial case filing for certain over-recovery. TR 3718 There were no disputes to these figures raised by other parties during the hearing. Accordingly, there is no evidentiary support for additional adjustments to FPL's working capital allowance and it should be approved as presented.

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?

POSITION: AIF has no position.

ISSUES 48-49*: Intentionally Blank*

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUES 53-54: *Intentionally Blank*

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUE 57: *Intentionally Blank*

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF asserts that FPL's requested rate base is appropriate and should be approved, subject to the adjustments presented by FPL Witness Ousdahl, Exhibit KO-16 and any other stipulations of the parties.

ARGUMENT:

FPL's base rate is appropriate as presented. As pointed out by Witness Deason, the Commission has an obligation and duty to be certain that utilities in Florida are able to recoup their costs of providing safe and reliable electric service to their customers. The base rate must be set at a rate with guarantees that the customers are paying for the service they receive and that the company is not subsidizing its customers because the base rate is too low. FPL has been able to provide superior service to its customers at the lowest rate in the state for many years and anticipates the base rate increase it has filed, once approved, will enable FPL to continue to provide superior service at a reasonable rate for many more years into the future.

COST OF CAPITAL

(According to PSC staff, 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?

POSITION: AIF supports FPL's position that its accumulated deferred income taxes are appropriate as presented to the Commission.

ARGUMENT:

FPL Witnesses Ousdahl presented the company's handling of accumulated deferred income taxes using a thirteen-month average method. TR 3749-3752. Although Intervenors asked many questions that required Witness Ousdahl to explain the method and resulting financial impacts this treatment has, the intervenors did not present any evidence or expert testimony to demonstrate that such use was improper. FPL Witness Ousdahl further explained that changing FPL tax adjustments was improper because any different treatment would undermine the consistency of the base rate calculations. TR 4005-4006. Accordingly, the amounts included by FPL should be approved as presented.

ISSUE 65: *Intentionally Blank*

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?

POSITION: AIF supports FPL's position as presented at Exhibit 358.

ARGUMENT:

FPL Witness Pimentel's testimony best explained the company's treatment of unamortized investment tax credits. Intervenors failed to adequately prove a different treatment was more appropriate or that management's chosen method of treatment created significant harm to the public company serves. Accordingly, the amounts proposed by FPL should be approved by the Commission.

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?

POSITION: AIF supports FPL position that the appropriate cost rate for short-term debt is 2.96% for the 2010 test year and 4.61% for the 2011 subsequent projected test year.

ARGUMENT:

FPL Witness Pimentel has the position and background to best indicate what short term debt is available to the company. This is important to gauge accurately due to company's necessity of quickly accessing capital being greater than similar companies in other states, due to Florida's unique hurricane risk. The company has the burden of managing its financial affairs efficiently to satisfy its obligations to both its customers and shareholders. The short term debt costs are part of management's responsibility and should be approved by the Commission.

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?

POSITION: AIF supports FPL's position that the appropriate cost rate for long term debt is 5.55% for 2010 and 5.81% for 2011.

ARGUMENT:

FPL Witness Pimentel has the position and background to best indicate what short term debt is available to the company. This is important to gauge accurately due to company's necessity of quickly accessing capital being greater than similar companies in other states, due to Florida's unique hurricane risk. The company has the burden of managing its financial affairs efficiently to satisfy its obligations to both its customers and shareholders. The short term debt costs are part of management's responsibility and should be approved by the Commission.

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?

POSITION: **Yes.** AIF supports FPL position that the adjustments presented in Exhibit KO-16 appropriately reconcile the 2010 and 2011 rate base and capital structure.

ARGUMENT:

FPL Witness Pimentel thoroughly reviewed FPL's capital structure and adjustments required to the Commission. TR 4800. Any positions challenging FPL's structure are taken by Intervenors only for the purpose of litigation and delay. Such challenges should be completely disregarded in accordance with Commission established precedent that leaves utilitiy's capital structure decisions As the Commission previously stated, "Invasion of the field of management in the area of capital structure is justified only when the public interest requires the exercise of extreme measures for its protection and benefit." See *Re Florida Power and Light Company*, Docket No. 7759-EU, Order Nos. 4078, 4078-A, 4078-B.

Intervenors' arguments amount to nothing more than alternative ways of capital structure management that do not yield significant impacts to the advantage of FPL customers. Those nominal challenges certainly do not signal that the public is in danger from FPL's capital structure adjustments and therefore should not be considered.

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?

POSITION: **Yes.** AIF supports FPL's position that its treatment of purchase power contracts is proper and should be approved.

ARGUMENT:

FPL Witnesses Avera and Pimentel clearly explained the nature of power purchased contracts and the financial obligations they place on the company. TR 4443, 4850. Those financial obligations operate exactly like debts and should be evaluated as such in conjunction with evaluation of FPL's capital structure. FPL Witness Avera clearly explained that power purchased contracts require payment from FPL regardless of FPL's revenues or other financial performances. FPL Witness Pimentel also explained that investors consider purchase powered contracts to increase a company's risk.

Further, this Commission should recognize management's prerogative to best classify the power purchased contracts based on its evaluation of the financial conditions under which it must operate. This Commission should demonstrate its commitment to a stable and predictable regulatory environment and recognize its previous ruling that "Capital structures basically fall within the prerogatives of management because of the impact that capital ratios exert on the ability of the utility to maintain its credit and attract capital." See *Re Florida Power and Light Company*, Docket No. 7759-EU, Order Nos. 4078, 4078-A, 4078-B.

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?

POSITION: AIF supports FPL position that its current equity ratio of 55.8% is appropriate and should not be reduced.

ARGUMENT:

FPL's capital structure should remain at approximately 55.8% of investor sources of funds on an adjusted basis. This is the current equity ratio and should be continued. All Intervenor witnesses who challenged FPL's equity ratio did so on the basis of inaccurate assumptions that disregarded the facts of FPL's proposed capital structure, including its current equity ratio. These discrepancies, all of which ignored Commission required methods, were succinctly stated at hearing by FPL Witness Pimentel.

OPC Witness Woolridge testified to the appropriate level of equity dollars but expressed those dollars in a percentage term differently than FPL. The percentage difference that OPC Witness Woolridge advocated actually yields the same amount of equity dollars that FPL requests. OPC Witness Woolridge simply did not use the Commission approved thirteen month average capital structure when making his calculations of an acceptable equity ratio.

OPC Witness Brown, FIPUG Witness Pollock and SFHHA Witness Baudino all ignored nuclear fuel lease terms and storm recovery bonds that are required by the Commission in their calculations upon which they based their opinions that the FPL equity ratio should be lower. TR 4896-98, 5504-05.

It cannot be ignored that the adjusted equity ratio of 55.8% that FPL is requesting is not a new equity ratio request. This is a request to continue to utilize the same adjusted equity ratio that FPL has used, as approved by this Commission, since 1999. Maintaining such consistency and stability is paramount to attracting investors who and should be a high priority of this Commission.

Again, the Commission should recognize that management is required to evaluate the financial markets in which FPL operates and should therefore be free to establish the capital structure that best allows it to succeed in the current environment.

ISSUE 72: *Intentionally Blank*

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?

POSITION: AIF supports FPL's position that the proper capital structure is presented by MFR D-1A and subject to the adjustments of Exhibit KO-16 and other stipulations asserted during the rate hearings.

ARGUMENT:

The Commission must continue its commitment to a stable regulatory environment and allow FPL management to continue to design and operate within the capital structure it selects. This existing capital structure is vital to the reliability and assurance of service that FPL customers are receiving and will continue to receive. The existing structure allows FPL to withstand the financial challenges it regularly faces. In most recent history, this has included the hurricanes of 2004 and 2005 as well as the national credit crisis that was spiraling out of control in 2008. The Commission must adhere to its previous rulings that "Capital structures basically fall within the prerogatives of management because of the impact that capital ratios exert on the ability of the utility to maintain its credit and attract capital." See *Re Florida Power and Light Company*, Docket No. 7759-EU, Order Nos. 4078, 4078-A, 4078-B.

There is no evidence in the record that suggests that FPL's performance or management are detrimental to its customers or investors or that its chosen capital structure is insufficient. A leading performer, like FPL, should be rewarded for a leading performance and not subjected to the average returns, particularly when their performance so abundantly exceeds the mere average. OPC Witness Woolridge clearly recognized FPL's performance as a utility, an employer, and an investor in Florida's infrastructure as far exceeding the average performance most other companies achieve. TR 3280.

FPL has demonstrated through the use of appropriate tests, such as comparison to appropriate Comparable Risk Proxy Groups, that its proposed capital structure is appropriate. TR 4471. Single-A credit ratings are essentially identical to FPL's corporate credit rating. TR 4470 [Avera at p. 41 of direct.] FPL's favorable credit rating directly benefits the ratepayer by attracting capital at relatively low cost, enabling the company to fund its capital projects at the lowest costs possible. Particularly at a time of great market volatility TR 4470-4472 [Avera at pp 12-21] the Commission should not second guess FPL's proven management ability to establish an appropriate capital structure.

The Commission accordingly has no viable basis upon which it should set a different rate of return or otherwise alter management's plans and objectives. As the Commission previously stated, "Invasion of the field of management in the area of capital structure is justified only when the public interest requires the exercise of extreme measures for its protection and benefit." Accordingly, the Commission should approve the rate of return as presented by FPL and allow the Company to demonstrate its ability to earn the returns its investors desire for the benefit of its customers.

ISSUES 74-79: *Intentionally Blank*

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?

POSITION: AIF supports FPL position that 12.5% return on common equity for both 2010 and 2011 should be authorized by the PSC.

ARGUMENT:

The Commission should establish an ROE of 12.5 percent. In the current market, investors are earning high interest rates while investing in relatively safe utility bonds. TR 4470-4472 [Avera at p. 6 of direct.] An ROE of 12.5 percent is necessary to attract investment in higher risk offerings such as utility stock. In addition, the Commission should recognize the efficiencies that result from FPL's excellence in management in establishing FPL's ROE. [Avera direct at p. 4.]

Intervenors are either mistaken or misleading when they assert that an earning rate this high is too excessive in the current economic conditions. First, they are misleading in suggesting that such approval will guarantee that the company receives a 12.5% return. This is not true. Such approval will only allow the company to achieve a return up to 12.5% -- whether the company achieves that level will be determined by its performance in the future. As this Commission has previously found, "A public utility is not guaranteed a profit on its operations; it has a right to an opportunity to earn a fair and reasonable return on the value of its property used in the public service under efficient and economical operation of the business." See *Re Florida Power and Light Company*, Docket No. 7759-EU, Order Nos. 4078, 4078-A, 4078-B.

Further, the Commission has an obligation to both FPL and its customers to set rates, including rate of return, at levels which allow management the flexibility it needs to fulfill the needs of its customers and investors. Additionally, any suggestion that the current economic conditions should stifle a company's success and prosperity is absolutely ludicrous. Florida's business community is shouldering and weathering virtually all the burdens of the state's economic crunch. Now more than ever, this Commission should continue to grant Florida utilities, and FPL in this particular case, the flexibility to achieve rates of return that are "sufficient to assure confidence in the financial soundness of the utility [and] must be adequate under efficient and economical management to maintain and support the utility's credit and enable it to raise the money necessary for the proper discharge of its public duties" Id. In that ruling the Commission noted its obligations in establishing an acceptable rate of return as follows:

> [E]very utility must compete with regulated and nonregulated industries alike for factors of production-land, labor, and capital; and that the amount of money in

> earnings allowed by a commission to attract capital sets a limit on what utilities can bid for the services of capital. If the rates they can pay do not meet the competitive rate, then resources will seek employment in alternative activities. A regulatory commission, they conclude, therefore has a tremendous influence on resource allocation because it does, in effect, help to establish profit levels for utilities. Id.

In that ruling, the Commission further recognized its duties to both shareholders and to the customers in establishing a reasonable rate of return as explained to the Commission by the Florida Supreme Court *in Jacksonville Gas Corp. v. Florida R. & Pub. Utilities Commission*, 50 So 2d 887 (1951) as follows:

> [T]here is ever-present one element, that is, the percentage of return which may fluctuate within the boundaries of reasonableness and justness.‘ Further the court said that, ‘...changing conditions may be compensated from time to time by varying the percentage of return so that the holder of a share of stock will receive an amount to which he is at the time fairly entitled.‘ Inherent in the court's language, of course, is recognition that the regulatory body, in fixing the rate of return and, ultimately, the service rates calculated to produce that return, is required to give consideration to changing conditions, the rights of the shareholders at the time, and the rights of the utility's ratepayers to just and reasonable rates.

FPL Witness Avera most credibly demonstrated that the rate of return requested by FPL is reasonable and necessary in the current economic conditions and is not a guarantee of earnings, but rather an opportunity to earn, as this Commission has allowed and supported for many years. TR 4484

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?

POSITION: AIF supports FPL position that the average weighted cost of capital should be 8.00% for 2010 and 8.18% for 2011, subject to the adjustments presented in KO-16.

ARGUMENT:

The Commission must continue its commitment to a stable regulatory environment and allow FPL management to continue to design and operate within the capital structure it selects. This existing capital structure is vital to the reliability and assurance of service that FPL customers are receiving and will continue to receive. The existing structure allows FPL to withstand the financial challenges it regularly faces. The Commission must adhere to its previous rulings that "Capital structures basically fall within the prerogatives of management because of the impact that capital ratios exert on the ability of the utility to maintain its credit and attract capital." See *Re Florida Power and Light Company*, Docket No. 7759-EU, Order Nos. 4078, 4078-A, 4078-B.

NET OPERATING INCOME

(According to PSC staff, 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?

POSITION: AIF supports FPL position that the appropriate inflation and customer growth factors for 2010 and 2011 projected years were submitted by FPL in MFR F-8.

ARGUMENT:

FPL Witness Morely provided the most credible testimony upon which inflation, customer growth and other forecasting factors should be based.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUE 89: Is an adjustment appropriate to FPL's Late Payment Fee Revenues if the minimum Late Payment Charge is approved in Issue (79 right now)?

A. For the 2010 projected test year?

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

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUE 95: Are the cost savings associated with AMI meters appropriately included in net operating income?

A. For the 2010 projected test year?

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

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUES 98-99: *Intentionally blank*

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

POSITION: AIF supports FPL's position that no payroll adjustments must be made to reflect the historical average level of unfilled positions and jurisdiction overtime.

ARGUMENT:

FPL Witness Slattery clearly demonstrated at hearing that the company's payroll budget is required for it to deliver reliable service as promised and required by its customers. The actual expenses incurred due to unfilled positions, rather than headcount of number of employees, is more on point to the question of appropriate payroll budget. The lack of workforce available for certain positions within FPL is due to a wide variety of economic factors that do not lower the company's operating expenses. Additionally, Intervenors are suggested without presenting credible evidence on this issue, that FPL shrink its workforce and job projections in the future. Such position is incredible in the face of the economic times in which private sector job creation is crucial to the state's overall economic recovery. Accordingly, the payroll submitted should be approved.

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

POSITION: AIF supports the position of FPL that it should not be required to reduce its expenses for productivity improvements given its lower historical rate of growth in payroll costs.

ARGUMENT:

There was no testimony or other evidence at hearing to contradict or otherwise question the reliability and credibility of FPL's forecasted productivity. Accordingly, the forecasts as presented should not be reduced.

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

POSITION: Yes. AIF supports FPL's position that its requested headcount and payroll expense levels are necessary to provide the reliable and safe service that its customers require.

ARGUMENT:

The testimony of FPL Witness Stall was unchallenged and clearly demonstrates that the training of some positions, particular in the nuclear field, takes many years and the company is required and obligated to make that personnel commitment for the safety of its customers and the state of Florida. A reduction in the projected staffing expenses is fool hardy and should not be considered.

ISSUE 103: 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?

POSITION: **No.** AIF supports the levels of salaries and benefits presented by the company, subject to all stipulations and adjustments made during the rate proceedings.

ARGUMENT:

At hearing, FPL offered significant revisions to the original salaries and employee benefits requested with its initial rate filing. Compensation to employees is a necessary expense to guarantee that the company is able to provide service to its customers in a safe and reliable manner, in the most efficient manner possible. Accordingly, all salaries and benefits remaining for which the company is seeking inclusion on the rate should be allowed.

ISSUES 104-105: *Intentionally Blank*

ISSUE 106: 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?

POSITION: **No.** AIF supports the FPL position that all pension amounts presented to the Commission are actuarially sound and should not be adjusted.

ARGUMENT:

No other Intervenor took a position on this issue. The Company went to great lengths to demonstrate that it used plan costs, related obligations, and actuarial analysis to present its reasonable and supported assumptions for both 2010 and 2011 test years. There is no record evidence disputing the company's position on this issue. Accordingly, the Pension Expense should be allowed as presented.

ISSUE 107: 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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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

POSITION: AIF has no position.

ISSUES 110-116: *Intentionally blank*

ISSUE 116a: Is an adjustment necessary to reflect the gains on sale of utility assets sold to FPL's non-regulated affiliates?

POSITION: AIF has no position.

ISSUES 117-118: *Intentionally blank*

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?

POSITION: AIF has no position.

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?

POSITION: **No.** AIF supports FPL position that the storm damage reserve should be approved as requested with this rate hearing.

ARGUMENT:

FPL Witness Harris explained in his testimony at hearing that this storm damage reserve is critical for the company to be able to respond to the geographic and weather challenges that its unique position in the State of Florida places upon it. Florida battles weather challenges that require immediate responses. Although the company can obtain additional reimbursement for its storm expenditures from rate payers at a post-event assessment, this is neither good for the company nor its customers. TR 3507-3510 First, the availability of the storm reserve capital helps the company to access capital in times of crisis in a way that is much less expensive to the company than if the reserve did not exist. This is good for customers because the company is able to obtain necessary capital for reconstruction and restoration of facilities at lower costs. Further this is good for consumers to have these base rate amounts approved now, within a base rate request that will lower the average household bill in 2010, because they will be adequately protected from unexpected assessments and surcharges on their bill that they will be forced to pay following a catastrophic weather event. Such stability and predictability in rates for the customers ought to be one of the Commission's goals in establishing this base rate. Although intervenors criticize the inclusion of the storm damage reserve amounts, they provide no evidence that it will allow the company to collect rates that are not direct expenses of cost of service. Accordingly, the Commission should approve the storm damage reserve as requested.

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

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUE 123: *Intentionally Blank.*

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

ISSUE 127: *Intentionally blank*

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?

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: **No.** AIF supports FPL position that its depreciation expenses, subject to FPL adjustments presented through out the rate proceedings are relate to clause recoverable projects that do not affected projected plant in service balances that comprise retail rate base.

ARGUMENT:

FPL Witness Deason convincingly explained both the technical requirements of handling depreciation as well as the public policy reasons for allowing same as presented by FPL. TR 6720-6812.

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?

POSITION: **No.** AIF supports FPL position that depreciation expenses are appropriate as submitted and no adjustments other than those presented in FPL Exhibit KO-16 should be made.

ARGUMENT:

FPL Witness Deason convincingly explained both the technical requirements of handling depreciation as well as the public policy reasons for allowing same as presented by FPL. TR 6720-6812.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

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?

POSITION: AIF has no position.

REVENUE REQUIREMENTS

(According to PSC staff, 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?

POSITION: AIF supports FPL position that the appropriate revenue expansion factors are 1.63342 for 2010 and 1.63256 for 2011. The appropriate net operating income multipliers with proper elements and rates are presented on Exhibit KO-16 and MFR C-44.

ARGUMENT:

FPL Witness Morley explained the factors, including but not limited to inflation and population growth, that were used in FPL's revenue expansion projections. She also provided the Commission with past FPL growth projections compared with actual performance that demonstrates FPL's accuracy in forecasting with its econometric model, the same model used in its projections for this case. TR 971-972. Although OPC challenged the inclusion of some of FPL's factors, OPC's result would have predicted this year's growth over 15 times that what FPL has actually experienced, which is within the range of error of FPL's projections for this year. Accordingly, FPL's projections as presented are sound and reliable. No other credible means of calculation was presented to the Commission. Accordingly, the expansion factors as presented by FPL should be approved.

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?

POSITION: **Yes.** AIF supports FPL positions that the revenue increases presented, subject to adjustments on Exhibit KO-16 are appropriate and should be allowed.

ARGUMENT:

As stated above, FPL has a demonstrated history of accurate and reliable growth projections. Such projections are the basis for FPL's projected operating revenue increases. Because there is no credible challenge to the factors upon which the projected increase is based, the Commission can only reasonably conclude that the projected operating revenue increase is proper.

ISSUE 138: *Intentionally blank*

COST OF SERVICE AND RATE DESIGN ISSUES

(According to PSC staff, 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?

POSITION: **Yes.** AIF supports FPL position that calculated revenues are correct as presented by FPL.

ARGUMENT:

FPL Witness Barrett provided the Commission with great detail about FPL's budgeting processes which include significant forecasts for revenue. He testified that FPL's forecasted budgeted, using the same process used for this rate case, has historically matched the company's actual net income results within a 2-2.5% margin of error. Accordingly, great credibility should be placed in FPL's calculated revenue projections for 2010 and 2011, based on its demonstrated accuracy in financial forecasting. TR 1220-1230

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?

POSITION: AIF has 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?

POSITION: AIF has no position.

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

POSITION: AIF supports FPL position that the proper revenue requirement allocation is presented in Exhibit MFR E-14.

ARGUMENT:

FPL proposes target revenues for each rate class with consideration to FPL's cost to provide service to that class in establishing its rate. According to FPL Witness Deaton, this Commission has repeatedly advocated a goal of establishing full parity among the different rate classes using the cost of service analysis. FPL's proposed rate design attempts to avoid cross-subsidization among the different rate classes. At the same time, the FPL proposal is projected to reduce the monthly bill of most Florida consumers for 2010. Accordingly, the customer bill impact has also been considered and minimized in FPL's proposal. TR 4210-4213. FIPUG Witness Pollock and SFHHA Witness Baron both suggested allocating base rate increases among the classes of 150% rather than using the cost of service methodology. TR 1736 and 2989-2990. This method, however, will not provide bill decreases for the large number of customers that

FPL's proposal will provide. Further, it would perpetuate subsidization of certain rate classes by others. Accordingly, FPL's proposal is more balanced and should be approved.

ISSUE 143: *Intentionally Blank*

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

ISSUES 146-147: *Intentionally blank*

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)

POSITION: AIF has no position.

ISSUE 149: *Intentionally blank*

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)

POSITION: AIF has no position.

ISSUE 151: *Intentionally Blank*

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)

POSITION: AIF has no position.

ISSUE 153: *Intentionally Blank*

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)

POSITION: AIF has 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)

POSITION: AIF has 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)

POSITION: AIF has 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)

POSITION: AIF has no position.

ISSUE 158: *Intentionally Blank*

ISSUE 159: What are the appropriate customer charges?

POSITION: AIF has no position.

ISSUE 160: What are the appropriate demand charges?

POSITION: AIF has no position.

ISSUE 161: What are the appropriate energy charges?

POSITION: AIF has no position.

ISSUE 162: What are the appropriate lighting rate charges?

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

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

POSITION: AIF has no position.

ISSUE 169: *Intentionally blank*

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

POSITION: AIF has no position.

ISSUE 171-172: *Intentionally Blank*

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?

POSITION: **Yes.** AIF supports FPL's position that the nuclear uprate additions must be recovered from customers and should be recovered through an adjustment in the base rates.

ARGUMENT:

As stated previously, the Commission has a duty to include all prudent and reasonable costs of service in the rate base it approves. Accordingly, the nuclear investments made by FPL, which are a necessary and encouraged part of Florida's alternative energy source infrastructure, should be included in the rate base if they are not otherwise recovered through various clause recoveries, including but not limited to the NCRC recovery.

ISSUE 173A: Should FPL evaluate the merits of an LED street lighting alternative to its conventional street lighting rate and, if so, how?

POSITION: AIF has no position.

ISSUE 174-176: *Intentionally Blank*

ISSUE 177: Should this docket be closed?

POSITION: AIF has no position.

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By: *s/ Tamela Ivey Perdue*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished electronically and by United States Mail this 16th day of November, 2009 to the following:

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