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080677-EI

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Sent: Tuesday, October 05, 2010 2:45 PM
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Cc: Charles Beck; McGLOTHLIN.JOSEPH; KELLY.JR
Subject: JOINT PETITION TO ASSIGN SETTLEMENTMENT AGREEMENT TO THE FULL COMMISSION FOR DECISION

Attachments: Joint Petition to Assign Settlement Agreement to the Full Commission for Decision.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 080677-EI

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

Docket No. 090130-EI

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

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

d. There are a total of 10 pages.

e. The document attached for electronic filing is JOINT PETITION TO ASSIGN SETTLEMENTMENT AGREEMENT TO THE FULL COMMISSION FOR DECISION.

Thank you for your attention and cooperation to this request.

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DOCUMENT NUMBER-DATE
08338 OCT-5 09
FPSC-COMMISSION CLERK

10/5/2010

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by) Docket No: 080677-EI
Florida Power & Light Company)

In re: 2009 depreciation and dismantlement) Docket No. 090130-EI
study by Florida Power & Light Company)
Filed: October 5, 2010

**JOINT PETITION TO ASSIGN SETTLEMENT AGREEMENT
TO THE FULL COMMISSION FOR DECISION**

The Office of Public Counsel, the Attorney General of the State of Florida, the Florida Industrial Power Users Group, the Florida Retail Federation, the South Florida Hospital and Healthcare Association, and the Federal Executive Agencies (collectively "Intervenors") hereby file this Joint Petition to Assign Settlement Agreement to the Full Commission for Decision (the "Joint Petition"). In support hereof, Intervenors state as follows:

On August 20, 2010, Intervenors and Florida Power & Light Company (FPL) requested the Commission to approve a Stipulation and Settlement, approval of which would resolve all issues in Docket Nos. 080677-EI and 090130-EI. This motion requesting the full Commission to decide whether to approve the Settlement Agreement is guided by section 350.01(6), Florida Statutes, which provides:

"A majority of the commissioners may determine that the full commission shall sit in any proceeding. The public counsel or a person regulated by the Public Service Commission and substantially affected by a proceeding may file a petition that the proceeding be assigned to the full commission. Within 15 days of receipt by the commission of any petition or application, the full commission shall dispose of such petition by majority vote and render a written decision thereon prior to assignment of less than the full commission to a proceeding. In disposing of such petition, the commission

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shall consider the overall general public interest and impact of the pending proceeding, including but not limited to the following criteria: the magnitude of a rate filing, including the number of customers affected and the total revenues requested; the services rendered to the affected public; the urgency of the requested action; the needs of the consuming public and the utility; value of service involved; the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved. If the petition is denied, the commission shall set forth the grounds for denial."

The Settlement Agreement provides assurance to customers that through the end of 2012 they will continue to receive important benefits provided by Commission Order No PSC-10-0153-FOF-EI issued March 17, 2010 (the Commission's decision in FPL's last rate case). In the last case, for example, the Commission set FPL's authorized return on equity at a range of 9% to 11% in recognition of the cost to FPL of acquiring capital that prevails under current economic conditions. These same difficult economic conditions, as well as the related low risks currently faced by FPL, persist today with no near term end in sight. The settlement agreement will ensure that FPL's actual earnings remain within the range set by the Commission. Similarly, the base rates approved by the Commission will continue through the end of 2012 if the Commission approves the Settlement Agreement. Without the agreement, there is a significant possibility that FPL would seek to raise rates again before the end of 2012 by filing a new petition for an increase in base rates. Consideration of the Settlement Agreement will be among the most important decisions facing the Commission during the next two years. The decision will affect all 4.5 million customers of FPL, and the monetary impact of the decision could easily amount to hundreds of millions of dollars. It is in the public interest to assign this matter to the full Commission because of the

significance and impact of the Settlement Agreement. In addition, it is fully appropriate that the two newest Commissioners be included in this important decision regarding the settlement because the impact of the settlement will be realized during their terms.

Recently the full Commission approved a joint motion for approval of a stipulation and settlement agreement concerning Tampa Electric Company (TECO). That stipulation and settlement agreement resolved all issues pending in Docket No. 090368-EI (In re: Review of the continuing need and costs associated with Tampa Electric Company's 5 Combustion Turbines and Big Bend Rail Facility) and all issues in the appeal of the TECO rate case Final Order and Order on Reconsideration. All Commissioners, including Commissioners Graham and Brisé, participated in that decision, even though Commissioners Graham and Brisé had not been appointed at the time of the TECO rate case Final Order or at the time of the Order on Reconsideration. Just as it was appropriate for Commissioners Graham and Brisé to participate in the decision regarding the TECO settlement, they should participate in the decision regarding the FPL settlement. Their participation in the decision on the FPL settlement agreement will be consistent with the manner in which the Commission handled the TECO settlement agreement.

Additionally, the Commission Staff have opened Docket No. 100410-EI for the purpose of addressing the issue of potential overearnings by FPL, and this new docket has been assigned to the full Commission. As noted in the Staff's recommendation filed in the new docket, the Settlement Agreement would address and resolve the potential overearnings issue, and accordingly, the interrelationship of the settlement agreement to the potential overearnings issue provides an additional reason why the Settlement

Agreement, like the new overearnings docket, Docket No. 100410-EI, should be decided by the full Commission.

OPC is authorized to represent that neither FPL nor Associated Industries of Florida oppose this motion.

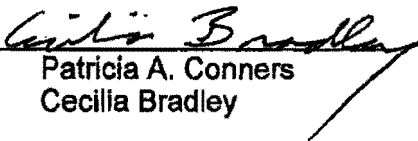
WHEREFORE, for the reasons stated in this motion, Intervenors respectfully request that the decision whether to approve the Settlement Agreement be assigned to the full Commission.

Respectfully submitted,

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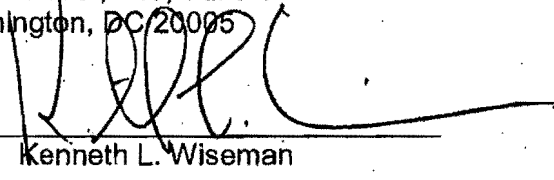
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CERTIFICATE OF SERVICE

Docket No. 080677-EI and Docket No.090130-EI

I HEREBY CERTIFY that a true and correct copy of the JOINT PETITION TO ASSIGN SETTLEMENT AGREEMENT TO THE FULL COMMISSION FOR DECISION has been furnished electronically and by U.S. Mail on this 5th day of October, 2010, to the following persons:

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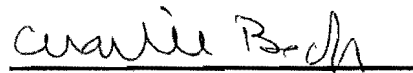
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