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DEAN CANNON
Speaker of the House of Representatives

August 6, 2012

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 120015-EI

Dear Ms. Cole:

Enclosed for filing in the above-referenced docket are the original and 7 copies of the Prehearing Statement of the Office of Public Counsel.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

Joseph A. McGlothlin
Associate Public Counsel

JAM:bsr

cc: All parties of record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company _______________________________/	Docket No: 120015-EI Filed: August 6, 2012

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-12-0143-PCO-EI, issued March 26, 2012, hereby submit this Prehearing Statement.

APPEARANCES:

Joseph A. McGlothlin
Associate Public Counsel

Charles J. Rehwinkel
Deputy Public Counsel

Patricia A. Christensen
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
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
Kevin W. O'Donnell	48, 49, 51, 59, 61
J. Randall Woolridge	48, 49, 58, 59, 61
Jacob Pous	116, 117
David P. Vondle	74-77, 79, 80

Helmuth W. Schultz III	24, 35-37, 41, 42, 44, 87, 88, 95, 96, 99, 100, 102, 104, 106, 109, 116, 118, 119
Donna Ramas	22, 24, 27, 30-32, 34, 41, 44-47, 50, 61, 65, 89,104, 108, 112-114, 118, 119, 121, 123-126, 128-132, 134
Daniel J. Lawton	51, 54, 59, 61

2. **EXHIBITS:**

Through Kevin W. O'Donnell, J. Randall Woolridge, Jacob Pous, David P. Vondle, Helmuth W. Schultz III, Donna Ramas, and Daniel J. Lawton, the Citizens intend to introduce the following exhibits, which can be identified on a composite basis for each witness:

Witness	Exhibits	Title
Kevin W. O'Donnell	Appendix A	Resume of Kevin O'Donnell
Kevin W. O'Donnell	KWO-1	Company Requested Capital Structure and Return on Equity
Kevin W. O'Donnell	KWO-2	Avera Comparable Group Common Equity Ratios
Kevin W. O'Donnell	KWO-3	Value Line Electric Utility Common Equity Ratios
Kevin W. O'Donnell	KWO-4	NextEra Consolidated Capital Structure
Kevin W. O'Donnell	KWO-5	NextEra Unregulated Operations Capital Structure
Kevin W. O'Donnell	KWO-6	NextEra Capital Structure Comparison
Kevin W. O'Donnell	KWO-7	Dividend Payment from FPL to NextEra
Kevin W. O'Donnell	KWO-8	OPC Recommended Capital Structure and ROE
Kevin W. O'Donnell	KWO-9	FPL Requested Capital Structure and 8.5% Return on Equity
Kevin W. O'Donnell	KWO-10	Revenue Requirement Impacts
J. Randall Woolridge	Appendix A	Resume of Dr. J. Randall Woolridge
J. Randall Woolridge	Appendix B	Research on Analysts' EPS Growth Rate Forecasts
J. Randall Woolridge	Appendix C	Building Blocks Equity Risk Premium
J. Randall Woolridge	JRW-1	Return on Equity Recommendation
J. Randall Woolridge	JRW-2	Interest Rates
J. Randall Woolridge	JRW-3	Capital Cost Indicators
J. Randall Woolridge	JRW-4	Summary Financial Statistics for Proxy Group
J. Randall Woolridge	JRW-5	Capital Structure Ratios
J. Randall Woolridge	JRW-6	The Relationship Between Estimated ROE and Market-to-Book Ratios
J. Randall Woolridge	JRW-7	Utility Capital Cost Indicators

J. Randall Woolridge	JRW-8	Industry Average Betas
J. Randall Woolridge	JRW-9	Three-Stage DCF Model
J. Randall Woolridge	JRW-10	DCF Study
J. Randall Woolridge	JRW-11	CAPM Study
J. Randall Woolridge	JRW-12	Summary of FPL's Proposed Equity Cost Rate
J. Randall Woolridge	JRW-13	Financial Statistics for Avera Group
J. Randall Woolridge	JRW-14	DCF Growth Rate Analysis
J. Randall Woolridge	JRW-15	GDP and S&P 500 Growth Rates
Jacob Pous	JP-Appendix A	Resume
David P. Vondle	DPV-1	Summary of Qualifications
David P. Vondle	DPV-2	PSC Rule 25-6.1351
David P. Vondle	DPV-3	MFR Schedule C-30
Helmuth W. Schultz III	HWS-1	Summary of Qualifications
Helmuth W. Schultz III	HWS-2	2013 Payroll Adjustment
Helmuth W. Schultz III	HWS-3	2013 Employee Incentive Compensation Adjustment
Helmuth W. Schultz III	HWS-4	2013 Benefits Adjustments
Helmuth W. Schultz III	HWS-5	Payroll Tax Expense Adjustment
Helmuth W. Schultz III	HWS-6	Distribution Vegetative Management – Tree Trimming
Helmuth W. Schultz III	HWS-7	Pole Inspection Expense
Helmuth W. Schultz III	HWS-8	Directors and Officers Liability Insurance Adjustment
Helmuth W. Schultz III	HWS-9	Uncollectible Expense Adjustment
Helmuth W. Schultz III	HWS-10	2012 Depreciation Surplus Adjustment
Helmuth W. Schultz III	HWS-11	Working Capital Analysis
Donna Ramas	DR-1	Resume of Donna Ramas
Donna Ramas	DR-2	January 2013 Rate Change – Primary
Donna Ramas	DR-3	Canaveral Step Increase – Primary
Donna Ramas	DR-4	January 2013 Rate Change – Alternative
Donna Ramas	DR-5	Canaveral Step Increase – Alternative
Donna Ramas	DR-6	FPL Rate Case Exp Workpaper
Daniel J. Lawton	DJL-1	Resume of Daniel J. Lawton
Daniel J. Lawton	DJL-2	ROE Performance Adder Cost
Daniel J. Lawton	DJL-3	Financial Metrics

3. STATEMENT OF BASIC POSITION

FPL seeks to increase its rates by $690.4 million annually. OPC asserts that existing rates are too high by $253 million (if the Canaveral Step Increase is rejected by the Commission) or $132 million (if a Canaveral Step Increase is accepted by the Commission). The reader at first blush may wonder how the two parties can possibly be so far apart. To a perhaps surprising degree, the chasm between FPL and OPC is explained overwhelmingly by the excessive "return" (profit) on shareholders' investment that FPL wishes to exact from its customers. FPL wants a return on equity (ROE) of 11.5%. Given the struggling economy, historically low interest rates, and current conditions of capital markets, FPL's requested ROE is grossly overstated. The cost of capital has declined since the Commission authorized a 10% ROE for FPL.

Equity is more expensive than debt. A prudent utility should secure a portion of its capital requirements in the form of an amount of debt that is sufficient to maintain total capital costs at reasonable levels, to the benefit of its customers. Instead, FPL hopes to magnify the impact of its bloated ROE request on customers by applying it to a capital structure containing an extravagant 59.6% equity ratio. (In contrast, FPL's corporate parent assigns only 21.1% equity to FPL's unregulated affiliates.) For ratemaking purposes, in view of FPL's relatively lower business risk, the Commission should expect FPL to utilize more debt and less equity to reduce the capital costs borne by customers. An adjustment to the equity ratio is also needed to prevent FPL from effectively requiring its customers to finance its parent's unregulated activities.

The separate decisions the Commission must make on ROE and equity ratio are inextricably linked. As the amount of equity that a utility includes in its capital structure increases, the utility's financial risk (contractual debt obligations) and overall risk decrease, and the ROE required by equity investors consequently decreases. OPC recommends that the Commission impute an equity ratio of 50% and authorize an ROE of 9%. Alternatively, if the Commission approves FPL's extremely high 59.6% equity ratio, it must reflect FPL's correspondingly lower risk profile in the ROE that it authorizes. OPC's expert witness, Dr. J. Randall Woolridge, will testify that the difference in risk translates to a reduction of 50 basis points in ROE.

If the Commission imputes a 50% equity ratio and adopts OPC's corresponding 9% ROE recommendation, those modifications alone will reduce FPL's requested increase of $690.4 million by $547 million. (If the Commission approves FPL's requested equity ratio and approves an ROE of 8.5%, the reduction will be $476 million.). (Both reductions are calculated prior to interest synchronization)

Included within FPL's 11.5% ROE request is a proposed .25% "performance adder." FPL benefits from a protected retail market and numerous risk-reducing, ratemaking mechanisms. The Commission should reject the rationale implicit in FPL's request for an "adder," which is that, absent such a "bonus," the "obligation to serve" heretofore vaunted by FPL (and other regulated utilities) requires—and customers should expect—nothing beyond mediocrity. Besides, the differences between utilities' bills—the sole calculus underlying FPL's proposal—depends on density of development, customer mix, and other factors that are not attributable solely to quality of management. For FPL, the difference also reflects the Commission's 2010 denial of FPL's effort to increase base rates by $1.2 billion annually. OPC opposes FPL's effort to increase rates by $41.5 million (at 59.62% equity ratio) through its self-serving "adder" request.

The remaining difference between FPL's revenue request and OPC's position consists of the effect of numerous adjustments to plant and O&M expense, which are treated in response to individual issues below. As OPC witness Dan Lawton demonstrates through the application of financial metrics, after all of OPC's adjustments are adopted, FPL will continue to have strong financial integrity.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

Legal

Issue 1: Absent a stipulation of parties in this case, does the Commission possess legal authority to grant FPL's proposal to continue utilizing the storm cost recovery mechanism that was one of the terms of the settlement agreement that the Commission approved in Order No. PSC-11-0089-S-EI?

OPC: No. The disposition of a request to recover storm-related costs involves factual and policy determinations, such as the amount to be collected; the issue of whether the amount should be limited by the utility's earnings level; the time period over which any surcharge should be spread; and the appropriate level of the storm reserve. Chapter 120, F.S., gives affected parties the right to raise and litigate such issues. In Docket No. 080677-EI, parties entered a negotiated resolution of such issues as part of a larger global settlement. The settlement expires on December 31, 2013. At that time, parties will again have the right to identify issues, present evidence, cross-examine witnesses, and argue positions on all storm recovery requests. To *limit* the scope of permissible inquiry, and to *prejudge* the amount and time frame of future recovery, applicability of earnings levels to FPL's future requests, and level of reserve to be restored in the form of *predetermined* outcomes in the absence of a stipulation and settlement of those potential issues would be to violate parties' substantive and procedural due process rights.

Issue 2: Does the Commission have the legal authority to approve FPL's requested base rate step increase for the Canaveral Modernization Project (CMP) if the CMP does not go into service until after the 2013 test year?

OPC: No position.

Issue 3: Does Commission Rule 25-6.1351, "Cost Allocation and Affiliate Transactions," require FPL to implement and apply the criteria (greater of market price or fully allocated cost for charges to affiliates, lesser of market price or fully allocated cost for charges paid to affiliates) and related requirements of the rule to all affiliate transactions?

OPC: Yes. To prevent subsidization of unregulated affiliates by FPL's ratepayers, Rule 25-6.1351 requires FPL to demonstrate that it has charged the greater of market price or fully allocated cost to affiliates, or paid the lesser of market price or fully allocated cost for charges to affiliates, unless it documents how specific, individual departures from these criteria benefit ratepayers.

Issue 4: With respect to amounts that FPL charges or pays to affiliates, who has the burden of proof in this proceeding to demonstrate the amounts comply with

Commission Rule25-6.1351 and should be allowed in the cost of service borne by customers?

OPC: FPL has the burden to prove it is entitled to collect from customers, through the ratemaking process, the expenses it includes in the test year "cost of service." One component of the test year expense calculation consists of payments to, and revenues from, affiliates. The appropriateness of those payments/revenues is governed by the criteria of Rule 25-6.1351, which applies to FPL. The burden of proof is therefore on FPL to demonstrate compliance with the rule.

Issue 5: OBJECTION: ***Does the Commission possess legal authority to grant increased profit as a performance based reward over and above fair, reasonable, just and compensatory rates without specific legislative authority such as that granted to the Commission by the legislature in §366.82 Fla. Stat.? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 6: OBJECTION: ***If the answer to Issue 5 is yes, does the Commission possess the legal authority to reward FPL based on performance relative to other businesses, many of which are FPL counterparties, and none of which are comparable to FPL in size, location, resources, customer base, etc., rather than on absolute measurements of performance? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 7: OBJECTION: ***If the answer to Issue 6 is yes, must the Commission consider the negative policy implications of rewarding FPL for performance relative to it's counterparties in giving FPL an incentive to use its market power and legislative lobbying power to keep other Florida electric utility rates higher than its own in order to reap the incentive reward for performance measured relative to such entities? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 8: OBJECTION: ***Is there an inherent conflict between the interests of the ratepaying public and the interests of NextEra Energy, Inc. shareholders such that the Commission must disallow FPL expenses benefiting shareholders rather than ratepayers in order to comply with its statutory mandate under §366.01 Fla. Stat. to protect the public welfare? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Test Period and Forecasting

Issue 9: Is FPL's projected test period of the 12 months ending December 31, 2013 appropriate?

OPC: FPL has the burden of demonstrating that the test period it proposes is representative of going-forward operations and conditions. Until the Commission has received all the evidence in this case, a final determination of the appropriateness of 2013 as a test year cannot be made.

Issue 10: Are FPL's forecasts of Customers, KWH, and KW by Rate Class and Revenue Class, for the 2013 projected test year appropriate? If not, what forecasts of Customers, KWH, and KW by Rate Class and Revenue Class should the Commission use in determining revenues and setting rates in this case?

OPC: Pending receipt and analysis of all discovery in this docket, the OPC cannot provide a final position on this issue or whether FPL has met its burden of showing that the forecasts of Customers, KWH, and KW are appropriate.

Issue 11: Are FPL's projected revenues from sales of electricity by rate class at present rates for the 2012 prior year and projected 2013 test year appropriate? If not, what are the appropriate projected amounts of revenues from sales of electricity for the 2012 prior year and projected 2013 test year?

OPC: Pending receipt and analysis of all discovery in this docket, the OPC cannot provide a final position on this issue or whether FPL has met its burden of showing that the forecasts of revenues are appropriate.

Issue 12: What, if any, provisions should the Commission make in setting FPL's rates for the 2013 test year to address uncertainty related to projected billing determinants and revenues?

OPC: No position pending receipt and analysis of discovery relating to Issues 10 and 11.

Issue 13: What are the appropriate inflation, customer growth, and other trend factors for use in forecasting the 2013 test year budget?

OPC: FPL has the burden of demonstrating that the inflation, customer growth, and other trend factors it proposed are appropriate.

Issue 14: Is FPL's proposed separation of costs and revenues between the wholesale and retail jurisdictions appropriate?

OPC: FPL has the burden of demonstrating that the separation studies supporting its jurisdictional factors are appropriate.

Quality of Service

Issue 15: Is the quality and reliability of electric service provided by FPL adequate?

OPC: No position.

Rate Base

Issue 16: Should the revenue requirement associated with the West County Energy Center Unit 3 currently collected through the Capacity Cost Recovery Clause be included in base rates?

OPC: No position at this time. However, as a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing capital items in rate base rather than in cost recovery clauses.

Issue 17: Should FPL's adjustment to extend the amortization period of the new SAP general ledger system from 5 years to 20 years be approved?

OPC: Yes. At this time, OPC does not object to extending the amortization period of the new SAP general ledger system from 5 years to 20 years. However, OPC reserves the right to address this issue in future depreciation-related proceedings and to recommend a different amortization period based on any new evidence, facts, or other relevant information.

Issue 18: Has FPL made the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation and Working Capital for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that only utility-related costs are properly recorded in its books and records and reflected in the MFRs.

Issue 19: OBJECTION: ***Whether FPL's allegation that a base rate increase is needed to construct the poles, wires, and transformers needed to serve an anticipated 100,000 new customer accounts from the end of 2010 through the end of 2013 is accurate and true? (Mr. Saporito's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 20: Are FPL's overhead costs (salaries, materials and supplies, benefits, etc.) related to in-house capital improvement projects properly recorded in rate base?

OPC: FPL has the burden of demonstrating that these overhead costs are properly recorded in its books and records and reflected in the MFRs.

Issue 21: Has FPL properly reduced rate base by contributions in aid of construction related to underground placement of distribution and transmission facilities?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 22: Is FPL's requested level of Plant in Service in the amount of $30,424,227,000 ($31,078,941,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of jurisdictional plant is $30,424,227,000. (Ramas)

Issue 23: Should capital recovery schedules be approved for Cutler Units 5 and 6, Sanford Unit 3, and Port Everglades? If so, what are the appropriate capital recovery schedules?

OPC: No position at this time.

Issue 24: Is FPL's requested level of Accumulated Depreciation in the amount of $11,901,711,000 ($12,970,028,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of jurisdictional accumulated depreciation is $11,921,986,000, which reflects an increase to the reserve of $20,275,000. (Schultz, Ramas)

Issue 25: For purposes of this rate case, should the Commission exercise its authority under Rule 25-6.0141(1)(g) to exclude a proportion of costs incurred by FPL to finance projects during construction from Construction Work in Progress ("CWIP") to be recovered upfront in rate base, and instead treat that proportion of costs subject to an allowance for funds used during construction ("AFUDC") to be recovered over the lives of the underlying assets?

OPC: No position at this time.

Issue 26: If the answer to Issue **25** is in the affirmative, what proportion of costs incurred by FPL to finance projects during construction should be treated as CWIP to be recovered upfront in rate base, and what proportion should be treated subject to AFUDC to be recovered over the lives of the underlying assets?

OPC: No position at this time.

Issue 27: Is FPL's requested Construction Work in Progress in the amount of $501,676,000 ($514,978,000 system) for the 2013 projected test year appropriate?

OPC: No. CWIP should be reduced by $4,234,000 ($4,685,000 system) per the Company response to Staff Interrogatory No. 88. (Ramas)

Issue 28: Is FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel for the 2013 projected test year appropriate?

OPC: No position at this time.

Issue 29: Is FPL's requested level of Nuclear Fuel of $565,229,000 ($576,317,000 system) for the 2013 projected test year appropriate?

OPC: No position at this time.

Issue 30: Should the Commission approve FPL's request to include the Fort Drum, McDaniel, and Hendry County proposed generation sites in Plant Held For Future Use?

OPC: No. FPL has failed to demonstrate that the sites will be used to provide service to customers within a reasonable time. This is manifested in a combination of one or more of: lack of an estimated date for needing the land, lack of plans to develop or have specific expected in-service date for generation facilities at the site(s), or lack of ownership. Consequently, Property Held For Future Use should be reduced by $104,805,000 ($108,952,000 system). (Ramas)

Issue 31: Should the Commission approve FPL's request to include nine proposed transmission line sites for which projected in-service dates are either 2022-2023 or indeterminate ("TBA") within Plant Held For Future Use?

OPC: No. FPL has not demonstrated that these 9 sites warrant inclusion in rate base – either because their projected in-service dates fall outside the Ten-Year Site Plan horizon or because they have no announced in-service date. Property Held For Future Use should be reduced by $7,732,000 ($8,555,000 system). (Ramas)

Issue 32: Is FPL's requested level of Property Held for Future Use in the amount of $230,192,000 ($237,400,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: No. FPL's Property Held for Future Use balance should be reduced by $112,537,000 pursuant to the adjustments recommended in Issues 30 and 31. (Ramas)

Issue 33: Should any adjustments be made to FPL's fossil fuel inventories for the 2013 projected test year?

OPC: No position at this time.

Issue 34: Should unamortized rate case expense be included in Working Capital?

OPC: No. Commission policy is to exclude unamortized rate case expense from rate base for rate setting purposes. FPL has not demonstrated why this long-standing policy should not be followed. Rate base should be reduced by $4,826,000 (jurisdictional and system). (Ramas)

Issue 35: Should Account 143, Other Accounts Receivable, be included in working capital for the 2013 test year?

OPC: No, not in its entirety. The Commission should exclude 65.10% of the amounts FPL proposes to include in projected test year working capital due to the lack of demonstration that the amounts included relate to providing current service to customers. Working capital should be reduced by $88,680,327 ($90,116,880 system). (Schultz)

Issue 36: Should an adjustment be made to the amount of Account 182.3, Other Regulatory Assets, included in working capital for the 2013 test year?

OPC: Yes. FPL has failed to meet its burden to demonstrate that the amounts it proposes to include in projected test year working capital relate to providing current service to customers. Working capital should be reduced by $266,850,000 ($271,365,000 system). (Schultz)

Issue 37: Should an adjustment be made to the amount of Account 186, Miscellaneous Deferred Debits, included in working capital for the 2013 test year?

OPC: Yes. FPL has failed to meet its burden to demonstrate that the amounts it proposes to include in projected test year working capital relate to providing current service to customers. Working capital should be reduced by $3,836,435 ($3,896,171 system). (Schultz)

Issue 38: Should unbilled revenues be included in working capital for the 2013 test year?

OPC: FPL has the burden of proof to demonstrate that it has adhered to Commission policy on this issue in calculating working capital under the balance sheet approach, to the extent it is used in this case. The Commission should hold the company to this burden.

Issue 39: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses be included in the calculation of the working capital allowance?

OPC objects to the wording of the issue and asserts that it should be reworded as follows:

[Has FPL adhered to the Commission's policy of excluding clause over-recoveries and including clause under-recoveries in its calculation of working capital? If not, what adjustments should be made?]

OPC: FPL has the burden of proof to demonstrate that it has adhered to Commission policy of excluding clause over-recoveries and including clause under-recoveries in its calculation of working capital under the balance sheet approach, to the extent it is used in this case. The Commission should hold the company to this burden.

Issue 40: What is the appropriate methodology for calculating FPL's Working Capital for the 2013 projected test year?

OPC: FPL has presented its test year working capital using the balance sheet approach. If the Commission continues to use this approach, FPL must demonstrate that it applied the method correctly and that the projected working capital on which it seeks to recover a return from customers accurately reflects the actual working capital required to provide utility service to customers.

Issue 41: If FPL's balance sheet approach methodology for calculating its Working Capital is adopted, what adjustments, if any, should be made to FPL's proposed Working Capital?

OPC: The Commission should adjust working capital when using the balance sheet approach for the adjustments summarized on page 50 of the testimony of OPC witness Schultz in the amount of $359,366,762 ($365,378,051 system). Additionally, working capital should be reduced $4,826,000 (jurisdictional and system) to remove unamortized rate case expense pursuant to Commission policy as recommended by OPC witness Ramas in Issue 34. (Schultz, Ramas)

Issue 42: Are FPL's adjustments to the Asset Retirement Obligation (ARO) revenue neutral as required by Commission rule?

OPC: FPL has not met its burden of demonstrating that it is in compliance with Commission Rule 25-14.014, F.A.C., and that the ARO adjustment is revenue neutral in its implementation. (Schultz)

Issue 43: Should the nuclear maintenance reserve be modified to reflect post-paid reserve accounting in lieu of pre-paid reserve accounting? (SFHHA)

OPC: Agree with SFHHA.

Issue 44: Is FPL's requested level of Working Capital in the amount of $1,217,209,000 ($2,032,805,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: No. As set out in Issues 33-37, the Commission should allow FPL working capital of no more than $853,016,238 if the balance sheet approach is used. (Schultz, Ramas)

Issue 45: Is FPL's requested rate base in the amount of $21,036,823,000 ($21,470,413,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate rate base should be $20,535,584,000 on a jurisdictional basis. (Ramas)

Cost of Capital

Issue 46: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?

OPC: The appropriate amount of accumulated deferred income taxes prior to reconciliation should be $4,365,176,000. After the pro rata reconciliation to rate base, the amount of deferred income taxes should be $4,261,168,000. (Ramas)

Issue 47: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?

OPC: The appropriate amount of unamortized investment tax credits prior to reconciliation should be $923,000. After the pro rata reconciliation to rate base, the amount of investment tax credits should be $901,000. (Ramas)

Issue 48: What is the appropriate cost rate for short-term debt for the 2013 projected test year?

OPC: OPC does not take issue with FPL's short-term debt cost rate of 2.11%. (Woolridge, O'Donnell)

Issue 49: What is the appropriate cost rate for long-term debt for the 2013 projected test year?

OPC: OPC does not take issue with FPL's long-term debt cost rate of 5.18%, as addressed by FPL witness Dewhurst in his rebuttal testimony. (Woolridge, O'Donnell)

Issue 50: What is the appropriate cost rate for customer deposits for the 2013 projected test year?

OPC: OPC does not take issue with FPL's revised customer deposit rate of 1.99%, consistent with FPL witness Ousdahl's rebuttal testimony. (Ramas)

Issue 51: What is the appropriate equity ratio that should be used for FPL for ratemaking purposes in this case?

OPC: Equity costs more than debt, but debt's financial risk increases overall risk profile. NEE's unregulated operations are riskier than FPL's. Logically, NEE should temper the higher business risk of unregulated affiliates with lower debt (higher equity ratio), and leverage FPL's lower business risk with more debt to lower overall costs of capital borne by customers. Perversely, NEE places only 21.1% equity in unregulated businesses but 59.62% equity in FPL, evincing NEE's intent to exploit the safer returns from FPL by financing its riskier unregulated businesses at FPL customers' expense. To protect customers from paying higher rates to support an unnecessarily expensive capital structure, the Commission should either impute more debt in FPL's capital structure or reflect the lower risk of inordinately high equity in a commensurately lower ROE. OPC proposes a 50% equity ratio, which is higher than the overall ratios of NEE (38.9%), Avera's proxy group, (47.3%), and Woolridge's proxy group (45%). OPC's recommended 9% ROE is tied to OPC's 50% equity ratio recommendation. If the Commission approves FPL's 59.62% equity ratio, it should lower ROE to 8.50%. (O'Donnell, Lawton)

Issue 52: OBJECTION: ***What is the FPL "average residential bill" for detached single family dwellings, as opposed to apartments, separately metered garages, etc? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 53: OBJECTION: ***To the extent the data is available, what is the current hypothetical average 1000 Kwh residential bill for every investor owned utility in the United States? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 54: Should FPL's request for a 25 basis point performance adder to the authorized return on equity and proposed annual review mechanism be approved?

OPC: No. FPL enjoys a protected retail market; cost recovery mechanisms for fuel costs, purchased power costs, environmental costs, and conservation costs that enable FPL to collect these significant costs from customers on a current basis, trued up to actual levels; the ability to request increases in rates; and other risk-reducing, revenue-enhancing benefits. In return for its privileged monopoly position, and the opportunity to earn a fair return, customers rightfully expect FPL to fulfill its obligation to provide the best possible service at the lowest reasonable costs. FPL's proposal of an ROE "performance adder" is therefore inconsistent with the regulatory scheme from which it benefits. Further, the differentials between FPL's rates and those of other Florida utilities are due in part to the Commission's denial of FPL's effort in Docket No. 080677-EI to increase rates by $1.2 billion annually. Finally, the relative levels of rates among utilities are affected by type and vintage of generating equipment, customer mix, density of development, and other factors that are not measurements of management performance. (Lawton)

Issue 55: OBJECTION: ***What are the historical ROE figures for FPL for every year of its existence? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 56: OBJECTION: ***What are the current ROE figures for every investor owned utility in the United States? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 57: OBJECTION: ***Is the existing FPL rate structure, which resulted in a 21% total return to shareholders of NextEra Energy, Inc. in 2011, and a total 10 year shareholder return of 209%, beating the S&P 500 by over 600%, on its face unjust, unreasonable or excessive such that the Commission should dismiss the instant rate case and, on its own motion under §366.06 and/or §366.07, and lower FPL Return on Equity to a figure more appropriate to the current economic conditions and the current cost of borrowing? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 58: What is the appropriate authorized return on equity (ROE) to use in establishing FPL's revenue requirement?

OPC: The economy is suffering. 30-year utility bond rates are below 4.0%. Interest rates are at levels not seen since the 1950s. In this environment, investors' expectations have declined. Further, the risk of the electric utility industry is among the lowest of any. OPC's analyses of FPL's cost of equity reflect these influences. Using both historical data and analysts' projections to quantify expected growth, Dr. Woolridge applied the DCF model to derive a range of required return of 8.5-9%. Based on OPC's recommended 50% equity ratio, Dr. Woolridge quantified an ROE of 9%. For FPL's requested 59.62% equity ratio, he recommended 8.5% to reflect the correspondingly lower financial and overall risk.

In his DCF, FPL witness Dr. Avera relied on inappropriate proxy groups and on the overly optimistic expected EPS growth rates of Wall Street analysts. Within his CAPM, he presumed that a 10% earnings growth rate can occur in an economy growing at 5%, thereby generating an unrealistic projected market return of 13.5% and an inflated risk premium of 10.5%. His analyses result in a grossly overstated ROE request. (Woolridge)

Issue 59: What is the appropriate capital structure that should be used by FPL for ratemaking purposes in this case?

OPC: • If OPC's proposed 50% equity ratio is adopted, the capital structure is:

($ in 000's)	Juris. Capital Structure Per Company	OPC Adj. to Cap. Struct.	Adjusted Amounts	Ratio
Long-Term Debt	$6,199,550	$1,476,157	$7,675,707	36.49%
Short-Term Debt	$360,542	$85,848	$446,390	2.12%
Preferred Stock	$0	$0	$0	0.00%
Common Equity	$9,684,101	($1,562,005)	$8,122,097	38.61%
Customer Deposits	$426,531	$0	$426,531	2.03%
Deferred Taxes	$4,365,176	$0	$4,365,176	20.75%
Investment Tax Credits	$923	$0	$923	0.00%
Total	$21,036,823	$0	$21,036,823	100.00%

If the Commission approves FPL's requested 59.62% equity ratio, the appropriate ROE is 8.50%, and the capital structure is:

($ in 000's)	Juris. Capital Structure Per FPL	Capital Ratio Per FPL
Long Term Debt	$6,199,550	29.47%
Short Term Debt	$360,542	1.71%
Preferred Stock	$0	0.00%
Common Equity	$9,684,101	46.03%
Customer Deposits	$426,531	2.03%
Deferred Taxes	$4,365,176	20.75%
Investment Tax Credits	$923	0.00%
Total	$21,036,823	100.00%

(O'Donnell, Woolridge, Lawton)

Issue 60: Is the combination of regulatory ROE, debt costs, capital structure and performance adder (if any) appropriate?

OPC: See position on issues 54, 58, 59 and 61.

Issue 61: What is the appropriate weighted average cost of capital?

OPC: Using OPC's primary capital structure that includes a 50% equity ratio and a 9% ROE, the appropriate cost of capital should be 5.45%. Using OPC's alternate capital structure (FPL's requested equity ratio and an 8.5% ROE), the appropriate cost of capital should be 5.52%. Both the primary and alternate OPC positions have been adjusted for the reductions to the cost of long-term debt and customer deposits as addressed in Issues 49 and 50. (O'Donnell, Woolridge, Lawton, Ramas)

Net Operating Income

Issue 62: Has FPL maximized the sources of net jurisdictional revenue that are projected to be reasonably available and technically viable for the 2013 test year? If not, what action, if any, should the Commission take in setting FPL's rates in this case? (For purposes of this issue, "net jurisdictional revenue" may include net revenue related to the supply of CO_2 captured from an FPL facility.)

OPC: FPL should take reasonable and cost-effective steps to offset test year revenue requirements. However, the Commission should not require or allow FPL to pursue revenue opportunities where such pursuit would not be in the best interests of the customers.

Issue 63: **Does FPL properly account for revenues received from FPL Fibernet and other telecommunications companies for utilizing long-haul fiber optic facilities hosted by FPL's electric transmission system? (FIPUG)**

OPC: No position at this time.

Issue 64: What are the appropriate projected amounts of other operating revenues for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that the other operating revenues it proposed are appropriate.

Issue 65: Is FPL's projected level of Total Operating Revenues of $4,407,253,000 ($4,505,007,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of Total Operating Revenues is $4,407,253,000 on a jurisdictional basis. (Ramas)

Issue 66: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?

OPC: No position at this time.

Issue 67: Should an adjustment be made to transfer incremental security costs from the Capacity Cost Recovery Clause to base rates?

OPC: Yes. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing normal recurring operating expenses such as security costs in base rates rather than in cost recovery clauses. Including the incremental security costs in base rates is consistent with how these costs are treated for each of the other IOUs.

Issue 68: If incremental security costs continue to be recovered in the Capacity Cost Recovery Clause, should the Commission approve FPL's adjustment to transfer incremental security payroll loadings from base rates to the Capacity Cost Recovery Clause?

OPC: No. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing normal recurring operating expenses such as security costs and related payroll loadings in base rates rather than in cost recovery clauses. This is consistent with how security costs are treated for each of the other IOUs.

Issue 69: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?

OPC: No position at this time.

Issue 70: Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?

OPC: No position at this time.

Issue 71: Should FPL's adjustment to remove all costs for the Substation Pollution Discharge Prevention Program from base rates and include them in the Environmental Cost Recovery Clause be approved?

OPC: No position at this time.

Issue 72: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Energy Conservation Cost Recovery Clause?

OPC: No position at this time.

Issue 73: Should FPL's adjustment to remove ECCR clause related payroll loadings of $1,815,000 for FICA and unemployment taxes from base rates and include them in the Energy Conservation Cost Recovery Clause be approved?

OPC: No. As a general matter, and absent any countervailing consideration that would be to the detriment of customers, OPC favors placing normal recurring operating expenses such as payroll loadings in base rates rather than in cost recovery clauses.

Issue 74: Has FPL made the appropriate adjustments to remove all non-utility activities from operating revenues and operating expenses for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that all non-utility activities and costs attributable to its affiliates are not included in its filing. In addition to adjustments warranted by the totality of evidence taken in this case, the Commission should make the adjustments recommended by OPC witness Vondle to ensure that FPL's transactions with its affiliates do not impose inappropriate costs on its customers. (Vondle)

Issue 75: Is the percentage value used to allocate NextEra Energy, Inc. corporate costs and/or expenses to FPL appropriate?

OPC: FPL has the burden of demonstrating that all non-utility activities and costs attributable to its affiliates are not included in its filing. In addition to adjustments warranted by the totality of evidence taken in this case, the Commission should make the adjustments recommended by OPC witness Vondle to ensure that FPL's transactions with its affiliates do not impose inappropriate costs on its customers. (Vondle)

Issue 76: Should the percentage value of NextEra Energy, Inc. corporate costs and/or expenses allocated to FPL be equal to the percentage value of NextEra Energy, Inc. corporate costs and/or expenses allocated to NextEra Energy Resources?

OPC: FPL has the burden of demonstrating that all non-utility activities and costs attributable to its affiliates are not included in its filing. In addition to adjustments warranted by the totality of evidence taken in this case, the Commission should make the adjustments recommended by OPC witness Vondle to ensure that FPL's transactions with its affiliates do not impose inappropriate costs on its customers. (Vondle)

Issue 77: Are the amounts of the NextEra Energy, Inc. corporate costs and/or expenses (including executive compensation and benefits) allocated to FPL fair, just, and reasonable?

OPC: FPL has the burden of demonstrating that all non-utility activities and costs attributable to its affiliates are not included in its filing. In addition to adjustments warranted by the totality of evidence taken in this case, the Commission should make the adjustments recommended by OPC witness Vondle to ensure that FPL's transactions with its affiliates do not impose inappropriate costs on its customers. (Vondle)

Issue 78: OBJECTION: ***What portion of NextEra Energy, Inc. expenses borne by FPL customers are not useful in serving the FPL ratepaying public but rather benefit NextEra Energy, Inc. shareholders? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 79: Should any adjustments be made to FPL's operating revenues or operating expenses for the effects of transactions with affiliated companies for the 2013 projected test year?

OPC: Yes. To demonstrate its customers are not subsidizing affiliates, and to support its test year request in this case, FPL should employ such measures as bidding for services, service agreements between FPL and its affiliates, analyses of market prices, the creation of a virtual service company, and positive time reporting. Instead, the record reveals severe deficiencies in the manner in which FPL accounts for affiliate transactions, and a resulting dearth of the type of information necessary to enable the Commission to determine the reasonableness of affiliate-related amounts in this case. Further, FPL applies a "general allocator" to some expenses that, because of its emphasis on revenues, steers a disproportionate amount of costs to FPL. Based on FPL's abject failure to meet its burden of proof, a case could be made that the Commission should disallow all affiliate-related expenses. Instead, OPC witness Vondle recommends the Commission reduce payments to affiliates and increase revenues from affiliates by 20%, as an order of magnitude proxy for proof missing from FPL's presentation. OPC's adjustment reduces test year O&M expenses by $34.5 million. (Vondle)

Issue 80: What additional action (including, but not limited to, establishing a separate investigatory docket), if any, should the Commission take related to affiliate transactions as a result of the evidence taken in this docket?

OPC: The Commission should open an investigatory docket to examine FPL's affiliate transactions. The proceeding should, at a minimum, address the nine areas of deficiency identified by OPC witness Vondle: the lack of full or virtual service company, deficiencies in service agreements, asymmetric pricing, allocation methodologies, positive time reporting, general allocator, proof of benefit of purchases from FPL affiliates to ratepayers, plus absence of competitive bidding and compensation to ratepayers for use of FPL's name. (Vondle)

Issue 81: Are FPL's overhead costs (salaries, materials and supplies, benefits, etc.) allocated to capital projects properly deducted from operating expenses?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs. See also OPC's position on Issue 104.

Issue 82: Has FPL made appropriate reductions in operating expenses where capital projects are not done in-house, but employee salaries and related overhead costs have been included in rate base?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 83: Has FPL properly reduced operating expenses in amounts equal to overheads reimbursed by third parties through contributions in aid of construction related to underground placement of distribution and transmission facilities?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 84: Has FPL properly reduced operating expenses in amounts equal to any overheads charged to third parties as contributions in aid of construction, fees or other payments to FPL?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 85: Should FPL salaries, costs and overheads for activities associated with (a) public relations or external affairs, (b) shareholder services, (c) attempted acquisitions of electric facilities, and (d) efforts opposing municipalizations pursuant to a franchise agreement be removed from operating expenses?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 86: Should FPL costs to pay contractors for legal, public relations or other consulting services be borne by customers or FPL shareholders?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 87: What is the appropriate amount of FPL's tree trimming expense for the 2013 projected test year?

OPC: FPL's tree trimming expense should be reduced by $9,236,000 ($9,240,000 system) to reflect the company's historical pattern of under-spending its budgeted tree trimming expense by an average of 13%. (Schultz)

Issue 88: What is the appropriate amount of FPL's pole inspection expense for the 2013 projected test year?

OPC: FPL's pole inspection expense should be reduced by $2,733,000 ($2,734,000 system) to account for the company's historical pattern of under-spending its budgeted pole inspection expense by an average of 19.51%. (Schultz)

Issue 89: What is the appropriate amount of FPL's production plant O&M expense for the 2013 projected test year?

OPC: O&M production plant generation overhaul expense should be based on the normalized costs of steam generation overhaul costs using a four-year average cost level that is based on the actual and projected costs for 2010 through 2012, as modified to remove retired units and to add new units. These costs should be inflated to 2013 levels based on the CPI-U compound multiplier. FPL's projected test year generation overhaul expenses should be reduced by $9,000,000 ($9,177,000 system) (Ramas)

Issue 90: What is the appropriate amount of FPL's transmission O&M expense for the 2013 projected test year?

OPC: See OPC's positions on Issues 87 and 88.

Issue 91: What is the appropriate amount of FPL's distribution O&M expense for the 2013 projected test year?

OPC: See OPC's positions on Issues 87 and 88.

Issue 92: OBJECTION: ***Is the proposed advertising expense of $516,478 for the test year of 2013, which is a 332% increase over 2011's advertising expense of $155,397 and which would raise the per customer cost 367% from $.03 to $.11, a legitimate cost, used and useful in serving the public? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 93: OBJECTION: ***Is an advertising expense of $155,397 for the test year of 2013 inadequate to serve the needs of the public? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 94: What is the appropriate amount of advertising expenses for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that these costs are properly recorded in its books and records and reflected in the MFRs.

Issue 95: If in its resolution of Legal Issue 1 the Commission determines it has legal authority to do so, should it approve FPL's proposed storm cost recovery mechanism?

OPC: No. Legalities aside, in the absence of a stipulation and settlement, as a matter of policy the Commission should not foreclose parties' opportunities to address future storm-related requests, or peremptorily exclude consideration of earnings from storm cost recovery metrics, or limit its own discretion to tailor future responses to specific factual circumstances. History demonstrates that the combination of a reserve and the ability to seek post-storm surcharges provides FPL adequate remedies for storm cost recovery. (Schultz)

Issue 96: What is the appropriate annual storm damage accrual and storm damage reserve for the 2013 projected test period?

OPC: OPC submits that FPL's current storm reserve, which currently is greater than $200 million, is adequate in light of the availability of timely post-storm surcharges upon the requisite showing. Therefore, no increase in the reserve is warranted. Similarly, no annual accrual is needed, and it should remain at zero. (Schultz)

Issue 97: OBJECTION: ***What portion of NextEra Energy, Inc. executive compensation expenses borne by FPL customers are not useful in serving the FPL ratepaying public but rather benefit NextEra Energy, Inc. shareholders? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 98: OBJECTION: ***What has been the total compensation for the head of FPL or, if a subsidiary, its parent company, for every year of FPL's existence? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

Issue 99: Should an adjustment be made to FPL's level of executive compensation for the 2013 projected test year?

OPC: Yes. To the extent the treatment of executive incentive compensation in FPL's filing is not consistent with the Commission's decision in FPL's last rate case, further adjustments may be warranted as suggested by discovery responses. (Schultz)

Issue 100: Should an adjustment be made to FPL's level of non-executive compensation for the 2013 projected test year?

OPC: Yes. Non-executive incentive compensation should be reduced $22,371,000 ($22,726,000 system) to properly allocate the benefits of non-executive incentive compensation between shareholders and ratepayers on a 50/50 basis consistent with the allocation for executive incentive compensation as ordered in the last FPL rate case. (Schultz).

Issue 101: Are FPL's proposed increases to average salaries for the 2013 projected test year appropriate?

OPC: FPL has the burden of demonstrating that any salary increases projected for 2013 are reasonable and appropriate under the conditions affecting the company. The Commission should ensure that customers do not bear salary increase costs that are excessive.

Issue 102: Is FPL's projected level of employee positions for the 2013 projected test year appropriate?

OPC: No. The Commission should reduce the number of forecasted positions in the 2013 test year from 10,147 to 9,766 based on FPL's historical pattern of not filling the forecasted or budgeted complement. This reduction in employees reduces total payroll (capitalized and expensed), excluding incentive compensation, by $34,866,000, resulting in a reduction in payroll expense for ratemaking purposes of $24,578, 000 ($24,968,000 system). Benefits Expense should also be reduced by $4,814,000 ($4,886,000 system). (Schultz)

Issue 103: What is the appropriate amount of Other Post Employment Benefits Expense for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that any OPEB costs projected for 2013 are reasonable and appropriate under the conditions affecting the company. The Commission should ensure that customers do not bear OPEB costs that are excessive.

<u>Issue 104</u>: What is the appropriate amount of FPL's requested level of Salaries and Employee Benefits for the 2013 projected test year? (Fallout Issue)

OPC: In addition to the adjustments described in Issues 99-103, the Commission should reduce FPL's benefits expense by $9,957,000 ($10,106,000 system). FPL has failed to meet its burden of demonstrating that its proposed O&M expense factor of 82.1% should be used for benefit costs instead of the historical average of 75.47%. Altogether, Salaries and Employee Benefits expense should be reduced by at least $61,720,000 ($62,686,000 system) as reflected on OPC witness Schultz's Exhibits HWS-2-4. (Schultz, Ramas)

<u>Issue 105</u>: What is the appropriate amount of Pension Expense for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that any pension costs projected for 2013 are reasonable and appropriate under the conditions affecting the company. The Commission should ensure that customers do not bear pension costs that are excessive.

<u>Issue 106</u>: Should an adjustment be made to the amount of the Directors and Officers Liability Insurance expense that FPL included in the 2013 projected test year?

OPC: Yes. The Commission should reduce Directors and Officers Liability Insurance expense by $1,369,000 ($1,391,000 system) consistent with Commission precedent that allocates the cost evenly between shareholders and ratepayers. (Schultz)

<u>Issue 107</u>: What is the appropriate amount of accrual for the Injuries & Damages reserve for the 2013 projected test year?

OPC: FPL has the burden of demonstrating that any injuries and damages reserve accruals projected for 2013 are reasonable and appropriate under the conditions affecting the company. The Commission should ensure that customers do not bear Injuries & Damages costs that are excessive.

<u>Issue 108</u>: What is the appropriate amount and amortization period for Rate Case Expense for the 2013 projected test year?

OPC: Rate case expense should be reduced by $2,076,884 to account for excessive projected expenses. This adjustment reasonably limits FPL's rate case expense to the amount authorized in the 2009 rate case plus an allowance for inflation. The appropriate amortization period should be four years. (Ramas)

Issue 109: What is the appropriate amount of uncollectible expense and bad debt rate for the 2013 projected test year?

OPC: FPL's bad debt expense should be reduced by $1,760,000 to remove the accrual to increase the uncollectibles reserve. FPL's proposal is purely subjective and is not appropriate for ratemaking. (Schultz)

Issue 110: What is the appropriate accounting methodology for the Nuclear Outage Maintenance Expense?

OPC: Agree with SFHHA.

Issue 111: What is the appropriate amount of the Nuclear Outage Maintenance Expense and Nuclear Outage Maintenance Reserve for the 2013 test year?

OPC: FPL has the burden of demonstrating that any Nuclear Outage Maintenance costs projected for 2013 are reasonable and appropriate under the conditions affecting the company. The Commission should ensure that customers do not bear Nuclear Outage Maintenance Expense and Nuclear Outage Maintenance Reserve costs that are excessive.

Issue 112: Has FPL included the appropriate amount of expense associated with the AMI smart meters in the 2013 projected test year?

OPC: No. The Commission should utilize the net savings of $19,943,000 projected in the last rate case instead of the net expense of $3,735,000 ($3,744,000 system) FPL has included in the filing. See also OPC's position on Issue 113. Test year expenses should be reduced $3,735,000 ($3,744,000 system). (Ramas)

Issue 113: Has FPL included the appropriate amount of savings associated with the AMI smart meters in the 2013 projected test year?

OPC: No. FPL should be held to the net O&M savings projection for 2013 identified in Order No. PSC-10-0153-FOF-EI resulting in $19,893,000 ($19,943,000 system) of net savings. In approving inclusion of the AMI capital costs in rate base in the prior case, the Commission considered future savings to customers that would result. It would be inappropriate to now include the full capital costs in rates and include none of the annual cost savings that will result.

(Ramas)

Issue 114: Is FPL's requested level of O&M Expense of $1,542,322,000 ($1,568,633,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of O&M Expense should be $1,398,494,000 on a jurisdictional basis. This reflects a decrease of $143,828,000. (Ramas)

Issue 115: What is the appropriate amount of depreciation and fossil dismantlement expense for the 2013 projected test year?

OPC: No position at this time.

Issue 116: Is FPL's requested amortization of $191,000,000 the appropriate amount of the theoretical depreciation reserve surplus to be amortized for the 2013 projected test year?

OPC: No. Amortization of the theoretical depreciation reserve surplus in the test year should be increased by a net amount of $40,550,000 (jurisdictional) as shown on Exhibit HWS-10, to account for appropriate adjustments to 2012 projected revenue requirements. Adjustments to the employee complement (with corresponding benefits and payroll taxes adjustments), tree trimming, pole inspections and uncollectibles reduce the needed amortization of the surplus in 2012 with a corresponding increase to the remaining amount available for 2013. (Schultz, Pous)

Issue 117: Given that in Order No. PSC-11-0089-S-EI the Commission directed FPL to complete the amortization of $894 million of depreciation surplus during the period 2010-2013, and in light of the Commission's decision regarding the amount of remaining reserve surplus to be amortized in the 2013 test year in conjunction with the resolution of Issue 116, should the Commission direct FPL to discontinue recording amortization of reserve surplus on its books after 2013 unless authorized or directed by subsequent Commission order?

OPC: Yes. After the Commission rules regarding the 2013 amount that will complete the four-year amortization of $894 million of reserve surplus that it ordered in Order No. PSC-10-0153-FOF-EI, going forward the situation should revert to the normal interplay among rate base, return, and expenses unless and until the Commission again orders FPL to return reserve surplus to customers in a future base rate proceeding. (Pous)

Issue 118: Is FPL's requested level of Depreciation and Amortization Expense of $802,761,000 ($819,794,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of Depreciation and Amortization Expense is $762,211,000 (jurisdictional), which reflects a decrease of $40,550,000 in Surplus Depreciation Reserve Amortization addressed in Issue 116. (Ramas, Schultz)

Issue 119: Is FPL's requested level of Taxes Other Than Income of $371,710,000 ($378,853,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of Taxes Other Than Income should be 370,133,000 on a jurisdictional basis. To correspond with OPC witness Schultz' adjustment to payroll in Issue 102, Payroll Tax Expense should be reduced by $1,577,000 ($1,601,000 system). (Schultz, Ramas)

Issue 120: Should the Commission adjust FPL's test year current state income taxes or rate base to recognize benefits, if any, that FPL has provided, or will provide, to any affiliates in furtherance of the affiliate's ability to elect to apportion adjusted Federal income tax under s.220.153, Florida Statutes (single sales factor)?

OPC: Yes. To the extent that FPL or its affiliates have utilized any items projected for inclusion in the rate base in order to qualify affiliate profits for a reduction in state income taxes, the Commission should reduce rate base accordingly or impose an appropriate adjustment (reduction) to FPL's income tax expense.

Issue 121: Is FPL's requested level of Income Taxes of $513,276,000 ($528,838,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: No. Income tax expense should be adjusted to reflect the income tax impact of OPC's recommended adjustments. Further adjustments may be required subject to the resolution of Issue 120. The final amount is subject to the resolution of other issues. (Ramas)

Issue 122: Is FPL's requested level of (Gain)/Loss on Disposal of Plant of negative $2,641,000 (negative $2,641,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: FPL has the burden of demonstrating that the gain or loss on disposal of plant it proposes is representative of going-forward operations and conditions. Until the Commission has received all the evidence in this case, a final determination of the appropriateness of this amount cannot be made.

Issue 123: Is FPL's requested level of Total Operating Expenses of $3,250,894,000 ($3,317,404,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of Total Operating Expenses should be $3,110,050,000 (jurisdictional), which reflects a recommended reduction of $140,844,000. The final amount is subject to the resolution of other issues. (Ramas)

Issue 124: Is FPL's projected Net Operating Income of $1,156,359,000 ($1,187,603,000 system) for the 2013 projected test year appropriate? (Fallout Issue)

OPC: The appropriate amount of Net Operating Income should be $1,297,203,000 (jurisdictional). The final amount is subject to the resolution of other issues. (Ramas)

Revenue Requirements

Issue 125: What are the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for FPL?

OPC: The appropriate NOI multiplier should be 1.63188. (Ramas)

Issue 126: Is FPL's requested annual operating revenue increase of $516,521,000 for the 2013 projected test year appropriate? (Fallout Issue)

OPC: No. Based on OPC's primary recommendation, annual operating revenues should be decreased by $253,446,000. Based on OPC's alternative recommendation, annual operating revenues should be decreased by $184,396,000. The final amount is subject to the resolution of other issues. (Ramas)

Issue 127: What economic impact will FPL's request for a rate increase have on customers, businesses and communities in Florida, including economic development activities and raising capital in Florida?

OPC: No position at this time.

Base Rate Step Adjustment

Issue 128: Should the Commission approve a base rate step adjustment for the Canaveral Modernization Project?

OPC: FPL has the burden of demonstrating that the Canaveral Modernization Project should result in a rate increase. In any event, any such rate increase should be no greater than $121,486,000 based on the OPC primary recommendation using a 50% equity capital structure and 8.5% ROE and other adjustments shown in the testimony of OPC witness Ramas and Exhibit DR-3. The final amount is subject to the resolution of other issues. (Ramas)

Issue 129: Should deferred taxes be included in the capital structure rather than as a reduction to rate base for the Canaveral Modernization Project base rate step adjustment?

OPC: In order to reflect the full impact on revenue requirements associated with the deferred income taxes that will result from the Canaveral Modernization Project, the Canaveral Modernization Project deferred income taxes should be reflected as a reduction to rate base for the step adjustment. This is consistent with the approach taken by both FPL and OPC in their Canaveral Step Increase calculations. (Ramas)

Issue 130: Is FPL's requested rate base of $821,325,000 ($837,297,000 system) for the Canaveral Modernization Project appropriate?

OPC: No. Canaveral Modernization Project rate base should be reduced to reflect updated projections filed by FPL. This results in a reduction in rate base of $9,782,000 (total company). (Ramas)

Issue 131: What is the appropriate weighted average cost of capital, including the proper components, amounts and cost rates associated with the capital structure, to calculate the base rate step adjustment for the Canaveral Modernization Project?

OPC: The Commission should use the same overall weighted average cost of capital to set base rates as reflected in Issue 61 of 5.45% using OPC's primary recommendation or 5.52% under OPC's alternative capital structure. If the Commission determines in Issue 129 that deferred taxes associated with the project should be included in the capital structure, then the capital structure should be revised to add the deferred taxes associated with the Canaveral Modernization Project. (Ramas)

Issue 132: Is FPL's requested net operating loss of $32,092,000 ($32,712,000 system) for the Canaveral Modernization Project appropriate?

OPC: No. The appropriate net operating loss should be $29,304,000. (Ramas)

<u>Issue 133</u>: Is FPL's requested Net Operating Income Multiplier of 1.63188 for the Canaveral Modernization Project appropriate?

OPC: Yes.

<u>Issue 134</u>: Is FPL's requested base rate step increase of $173,851,000 for the Canaveral Modernization Project appropriate?

OPC: No. FPL has the burden of demonstrating that any revenue requirement associated with the Canaveral Modernization Project should result in increased rates. If the Commission determines that FPL has nevertheless met this burden, any such rate increase should be no greater than $121,486,000 based on the OPC primary recommendation using a 50% equity capital structure and 9% ROE and other adjustments shown in the testimony of OPC witness Ramas and Exhibit DR-3. (Ramas)

<u>Issue 135</u>: What is the appropriate effective date for implementing FPL's requested base rate step increase for the Canaveral Modernization Project?

OPC: No position.

<u>Cost of Service and Rate Design</u>

<u>Issue 136</u>: OBJECTION: ***Are the proposed FPL rates fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No.

<u>Issue 137</u>: OBJECTION: ***Are the proposed FPL rates unjust, unreasonable, excessive or unjustly discriminatory or preferential? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position at this time.

<u>Issue 138</u>: OBJECTION: ***Are existing FPL rates fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

OPC: OPC believes that existing rates are higher than necessary to provide a reasonable return to FPL.

Issue 139: Should FPL employ a minimum distribution system ("MDS") cost of service methodology to classify and allocate distribution costs; if not, what methodology should be used?

OPC: No position.

Issue 140: What is the appropriate cost of service methodology to be used to allocate production costs to the rate classes?

OPC: No position.

Issue 141 What is the appropriate cost of service methodology to be used to allocate transmission plant-related costs to the rate classes?

OPC: No position.

Issue 142: Has FPL properly allocated costs to the rate classes?

OPC: No position.

Issue 143: Is FPL's proposed allocation of the Cape Canaveral Modernization step increase reasonable?

OPC: No position.

Issue 144: How should the change in revenue requirement be allocated among the customer classes?

OPC: No position.

Issue 145: Should FPL's current time-of-use residential rate be closed to new customers, effective January 1, 2013?

OPC: No position.

Issue 146: Should the Commission approve FPL's new Residential Time-of-Use Rider?

OPC: No position.

<u>Issue 147</u>: Should FPL's proposal to credit the fuel charge for lighting customers who are required to turn off outside lights during turtle nesting season be approved?

OPC: No position.

<u>Issue 148</u>: Should FPL's proposed change to the late payment charge be approved?

OPC: No position.

<u>Issue 149</u>: OBJECTION: ***Is the proposed new minimum late charge of $5.00 or 1.5% per month unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 150</u>: OBJECTION: ***Is the existing late charge of 1.5% per month fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 151</u>: OBJECTION: ***What is the actual legitimate cost to FPL of late payments? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 152</u>: OBJECTION: ***Is there evidence of public acceptance of a new $5.00 minimum late charge? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 153</u>: OBJECTION: ***What is the historic distribution of the amounts of late payments? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 154</u>: OBJECTION: ***What percentage of late payments are under $5.00? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 155: OBJECTION: ***What percentage of late payments are caused by apparent clerical errors, such as being a penny off, transposing cents and ten cents, etc.? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 156: OBJECTION: ***Is it appropriate to raise the minimum late payment charge to $5.00 resulting in a 103% increase to FPL of revenue from late fees, an additional $33 million? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 157: Should FPL's proposed change to the temporary construction service rate be approved?

OPC: No position.

Issue 158 Should FPL's proposed change to the Returned Payment Charge be approved?

OPC: No position.

Issue 159 OBJECTION: ***Is the proposed increase in the minimum returned check fee from $23.24 to up to $40 unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 160 OBJECTION: ***Is the existing minimum returned check fee of $23.24 fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 161 OBJECTION: ***Is the existing minimum returned check fee of $23.24 unjust, unreasonable, or excessive? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 162 OBJECTION: ***What is the actual legitimate cost to FPL of a returned check? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 163 OBJECTION: ***Is there evidence of public acceptance of a new minimum returned check fee of up to $40? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 164 OBJECTION: ***Is it appropriate to raise the minimum returned check fee with a resulting 41% increase in returned check fee revenue to FPL, an additional $2 million? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 165: What is the appropriate monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider? (8.820)

OPC: No position.

Issue 166 Has FPL correctly quantified the incentive payments associated with the Commercial/Industrial Load Control (CILC) classes?

OPC: No position.

Issue 167 Should the CILC rate be reopened?

OPC: No position.

Issue 168 Is FPL's proposed design of the demand and non-fuel energy charges for the CILC rate appropriate?

OPC: No position.

Issue 169 Should the Commercial/Industrial Demand Reduction Credit Rider (CDR) credit be increased?

OPC: No position.

Issue 170 Should CILC and CDR credits be allocated to non-firm loads?

OPC: No position.

Issue 171: What is the appropriate level and design of the charges under the Standby and Supplemental Services (SST-1) rate schedule?

OPC: No position.

Issue 172: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

OPC: No position.

Issue 173: What is the appropriate method of designing time of use rates for FPL?

OPC: No position at this time pending further development of the record.

Issue 174: What are the appropriate customer charges for January 1, 2013?

OPC: No position.

Issue 175: OBJECTION: ***Is the proposed residential RS-1 monthly customer charge of $7.00 unjust, unreasonable or excessive? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 176: OBJECTION: ***Is the existing residential RS-1 monthly customer charge of $5.90 fair, reasonable, just and compensatory? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 177: OBJECTION: ***Is the existing residential RS-1 monthly customer charge of $5.90 unjust, unreasonable, or excessive? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 178: OBJECTION: ***Was the cost of monthly RS-1 customer service $5.89 per month in 2010 and/or 2011 as stated by S.E. Romig, FPL Director, Rates and Tariffs, in his letter of August 5, 2011 to Mr. Thomas Saporito filed on August 8, 2011 in Docket 05554? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 179</u>: OBJECTION: ***In reference to the letter in Issue 178, what are the specific customer accounts and amounts making up the $3.69 of the $5.89 which is designated as "Miscellaneous Customer Accounts" in the attachment to Mr. Romig's letter? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 180</u>: OBJECTION: ***What is the actual legitimate cost of providing monthly RS-1 service? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 181</u>: OBJECTION: ***Is there evidence of public acceptance of a $7.00 RS-1 monthly customer charge? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 182</u>: OBJECTION: ***Is it appropriate to raise the RS-1 monthly customer charge 19% with a resulting increase in revenue to FPL of $54 million? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

<u>Issue 183</u>: What are the appropriate demand charges for January 1, 2013?

OPC: No position.

<u>Issue 184</u>: What are the appropriate energy charges for January 1, 2013?

OPC: No position.

<u>Issue 185</u>: What are the appropriate lighting rate charges for January 1, 2013?

OPC: No position.

<u>Issue 186</u>: What is the appropriate effective date for FPL's revised rates and charges, prior to a Base Rate Step adjustment, if any, associated with the Canaveral Modernization project?

OPC: No position.

Issue 187: What are the appropriate charges after the Canaveral Modernization Project comes on line?

OPC: No position.

Other Issues

Issue 188: OBJECTION: ***Whether FPL's investment in energy conservation; advertisements; consumer energy efficient appliances; and consumer electric generating systems is prudent, appropriate, and/or reasonable? (Mr. Saporito's Issue Objected to by FPL)***

OPC: No position.

Issue 189: OBJECTION: ***Whether FPL's incentive to expand its capital base in order to increase or maintain NextEra Energy, Inc. total shareholder return is in conflict with the mandate of the Florida Legislature to promote co-generation and demand side renewable energy which does not increase FPL's capital base? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 190: OBJECTION: ***What actions has FPL taken to promote or discourage utilization of demand side renewable energy systems, solar energy, and cogeneration that the Commission is mandated by §§366.80 - 366.85 to consider in establishing the appropriate rates in the instant rate case? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 191: OBJECTION: ***How many of Florida's 54 other electric utilities (other than FPL) buy electric power from FPL? (Mr. Nelson's Issue Objected to by FPL)***

OPC: No position.

Issue 192: 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 193: Should this docket be closed?

OPC: No.

5. STIPULATED ISSUES:

None at this time.

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, 2012

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by electronic mail and/or U.S. Mail on this 6th day of August, 2012, to the following:

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