Eric Fryson

From: Rhonda Dulgar [rhonda@gbwlegal.com]

Sent: Friday, August 17, 2012 2:45 PM

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Subject: Electronic Filing - Docket No. 120015-EI

Attachments: 120015.FRF.NoticeOfOfferOfSettlement.8-17-12.pdf

a. Person responsible for this electronic filing:
Robert Scheffel Wright
Gardner, Bist, Wiener, Wadsworth, Bowden,
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b. 120015-EI
In Re: Petition for Increase in Rates by Florida Power & Light Company.

c. Document being filed on behalf of the Florida Retail Federation.

d. There are a total of 50 pages.

e. The document attached for electronic filing is The Florida Retail Federation's Notice of Offer of Settlement.
(see attached file: 120015.FRF.NoticeOfOfferOfSettlement.8-17-12.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Increase In Rates By Florida Power & Light Company	)	DOCKET NO. 120015-EI
	)	FILED: AUGUST 17, 2012

THE FLORIDA RETAIL FEDERATION'S NOTICE OF OFFER OF SETTLEMENT

The Florida Retail Federation ("FRF"), by and through its undersigned counsel, hereby files this Offer of Settlement to Florida Power & Light Company and to all other parties to the above-styled docket.

In summary, the FRF's Offer of Settlement is structured very similarly to stipulations and settlement agreements that were agreed to by all parties in 2005 in Docket No. 050045-EI,[1] and in 2010 in Docket No. 080677-EI.[2] Under these settlements, FPL has enjoyed stable revenues and healthy returns, while FPL's customers have enjoyed stable base rates for the past seven years. Copies of the Commission's orders approving each of these settlement agreements, including the agreements themselves, are attached to this Offer of Settlement. The FRF believes that the proposal embodied in its Offer of Settlement fairly balances the interests of FPL and consumers and would urge all parties to this docket to give the Offer their most serious consideration.

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[1] In Re: Petition for Rate Increase by Florida Power & Light Company, Order No. 05-0902-S-EI, Order Approving Stipulation and Settlement (Fla. Pub. Serv. Comm'n, September 14, 2005).

[2] In Re: Petition for Rate Increase by Florida Power & Light Company, Order No. PSC-11-0089-S-EI, Order Approving Proposed Stipulation and Settlement (Fla. Pub. Serv. Comm'n, February 1, 2011). The Stipulation and Settlement was dated as of August 20, 2010. Id. at 22.

The FRF is filing this Offer of Settlement with a spirit of transparency and openness and in a sincere effort to resolve the parties' differences without further adversarial proceedings. While this Offer of Settlement may not be construed as a waiver of the FRF's positions on any issues in this case, the FRF proposes this Offer of Settlement as a fair and reasonable resolution of the complex and interrelated issues in this case.

Summary of Offer of Settlement

The following are the principal terms of the FRF's Offer of Settlement. The FRF contemplates that, if the parties are able to reach substantive agreement on these terms, the parties would then proceed to negotiate and execute a definitive Stipulation and Settlement Agreement, similar in form (and content) to settlements that the FRF, FPL, and other parties executed in 2005 and 2010.

1. Term: 3 years or 4 years, at FPL's option.

2. Return on Equity: 9.75% if a 3-year term, 10.00% if a 4-year term. Range of plus-or-minus 100 basis points relative to the ROE chosen by FPL according to the term of the agreement.

3. Equity Ratio: 55 percent.

4. Base Rate Increase: January 1, 2013 - Zero.

5. Rate Increases for New Power Plants: Following the manner in which the parties to the Stipulation and Settlement in Docket No. 050045-EI treated certain power plants that entered service during the term of that agreement, FPL would be authorized to increase its base rates to recover the annual base revenue requirements (or that portion of the annual base revenue requirements that is not otherwise recovered fully through a cost recovery clause or clauses) associated with its Cape Canaveral Clean Energy Center and

Riviera Clean Energy Center, respectively, with the timing of such increases to be simultaneous with the commercial in-service date of each unit. See Order No. 05-0902-S-EI at 3-4, 19-20.

6. Storm Cost Recovery: As agreed to by the parties to the Stipulation and Settlement in Docket No. 080677-EI. See Order No. 11-0089-S-EI at 13-14.

7. Amortization of Depreciation Surplus: Following the manner in which the parties to the Stipulation and Settlement in Docket No. 080677-EI addressed the amortization of depreciation reserve surplus, FPL would be given flexibility to amortize the amount of the $894 million of depreciation reserve surplus identified in Order No. 11-0089-S-EI remaining as of December 31, 2012, currently estimated by FPL to be $191 million, over the term of the settlement agreement. The other limitations that the parties agreed to in the 2010 Stipulation and Settlement would also apply. See Order No. 11-0089-S-EI at 20-21.

8. Provisions for Extreme Conditions: As agreed to by the parties to the Stipulation and Settlement in Docket No. 080677-EI, if FPL's actual ROE falls below 8.75% or 9.0%, as applicable, then FPL may seek base rate relief, and if FPL's actual ROE exceeds 10.75% or 11.0%, as applicable, then any of the consumer parties to the settlement may file a petition seeking to have FPL's rates reduced. See Order No. 11-0089-S-EI at 19-20.

9. Recovery of Other Costs Through Cost Recovery Clauses. As agreed to by the parties to the Stipulation and Settlement in Docket No. 080677-EI, FPL would not be precluded from requesting the Commission's authorization to recover costs that are of a type which traditionally and historically would be, have been, or are presently being recovered through cost recovery clauses or surcharges, or are incremental costs not currently recovered in base rates which the Florida Legislature or the Commission determines are clause recoverable subsequent to the approval of the agreement contemplated by this Offer of Settlement.

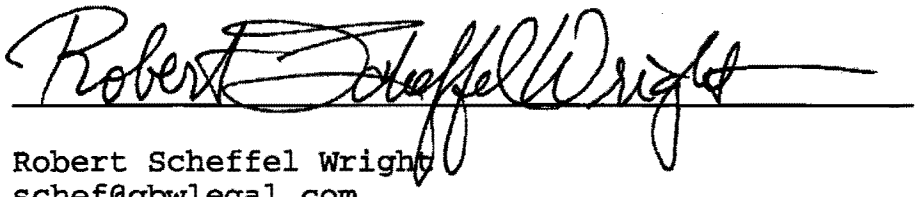
Conclusion

This Offer of Settlement is not a motion, but rather is an open and transparent offer to FPL and all parties to this docket that is tendered in an effort to resolve the parties' differences

on the many complex and interrelated issues in this case. The Offer of Settlement addresses those issues in a manner that fairly respects and balances FPL's financial needs for sufficient revenues to provide safe and reliable service at a reasonable cost and the needs of FPL's customers for safe and reliable electric service to be provided at the lowest possible cost, particularly in the current difficult economic times facing Florida and the United States.

Since this Offer of Settlement is not a motion, the FRF has not consulted with other parties to ask their positions with respect to the Offer. The FRF stands ready, willing, and able to enter into negotiations toward a definitive agreement embodying the terms of this Offer of Settlement, and the FRF respectfully encourages all other parties to this case to give this Offer their most serious consideration.

Respectfully submitted this 17th day of August 2012.



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Attorneys for the Florida Retail Federation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 17th day of August 2012, to the following:

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Robert Scheffel Wright
Attorney

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company.	DOCKET NO. 050045-EI
In re: 2005 comprehensive depreciation study by Florida Power & Light Company.	DOCKET NO. 050188-EI ORDER NO. PSC-05-0902-S-EI ISSUED: September 14, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

ORDER APPROVING STIPULATION AND SETTLEMENT

BY THE COMMISSION:

I. BACKGROUND

On March 22, 2005, Florida Power & Light Company (FPL) filed a petition for approval of a permanent increase in rates and charges sufficient to generate additional total annual revenues of $430,198,000 beginning January 1, 2006, and for approval of an adjustment to 2007 base rates to produce additional annual revenues of $122,757,000 beginning 30 days following the commercial in-service date of Turkey Point Unit 5 projected to occur in June 2007. In support of its petition, FPL filed new rate schedules, testimony, Minimum Filing Requirements (MFRs), and other schedules. FPL's petition was assigned Docket No. 050045-EI. By Order No. PSC-05-0619-PCO-EI, issued June 6, 2005, we suspended FPL's proposed new rate schedules to allow our staff and intervenors sufficient time to adequately and thoroughly examine the basis for the proposed new rates.

On March 17, 2005, FPL filed a depreciation study for this Commission's review. The depreciation study was assigned Docket No. 050188-EI. By Order No. PSC-05-0499-PCO-EI, issued May 9, 2005, we consolidated Docket Nos. 050188-EI and 050045-EI for all purposes.

As part of this consolidated proceeding, we conducted service hearings at the following locations in FPL's service territory: Daytona Beach, Viera, West Palm Beach, Ft. Lauderdale, Miami, Sarasota, and Ft. Myers. A formal administrative hearing was scheduled for August 22 - 26 and August 31 - September 2, 2005. The Office of Public Counsel (OPC), Office of the Attorney General (AG), Florida Industrial Power Users Group (FIPUG), Florida Retail Federation (FRF), Commercial Group (CG), AARP, Federal Executive Agencies (FEA), and

South Florida Hospital and Healthcare Association (SFHHA) were granted intervenor status. Common Cause Florida and seven individual customers filed a petition to intervene on August 15, 2005.

On August 22, 2005, the parties filed a joint motion for approval of a Stipulation and Settlement[1] among all parties to resolve all matters in this consolidated proceeding.[2] The Stipulation and Settlement was presented at the start of our hearing on August 22. The hearing was recessed to allow our staff to thoroughly review the Stipulation and Settlement and provide its analysis to us on August 24, when the hearing was reconvened for our vote.

By this Order, we approve the Stipulation and Settlement. Jurisdiction over these matters is vested in this Commission by various provisions of Chapter 366, Florida Statutes, including Sections 336.04, 366.05, and 366.06, Florida Statutes.

II. STIPULATION AND SETTLEMENT

The major elements contained in the Stipulation and Settlement are as follows:

- The Stipulation and Settlement is effective for a minimum term of four years - January 1, 2006, through December 31, 2009 - and thereafter will remain in effect until new base rates and charges become effective by order of the Commission. (Paragraph 1)

- With the exception of certain new and modified rate schedules specified in the Stipulation and Settlement, FPL's retail base rates and charges will remain unchanged on January 1, 2006, when the currently operative stipulation governing FPL's base rates and charges expires. (Paragraph 2)

- No party will petition for a change in FPL's base rates and charges to take effect prior to the minimum term of the Stipulation and Settlement, and, except as provided for in the Stipulation and Settlement, FPL will not petition for any new surcharges to recover costs that traditionally would be, or are presently, recovered through base rates. (Paragraph 3)

- A revenue sharing plan similar to the one contained in FPL's currently operative rate settlement will be implemented through the term of the Stipulation and Settlement. Retail base rate revenues between specified sharing threshold amounts and revenue caps will be shared as follows: FPL's shareholders will receive a 1/3 share, and FPL's retail customers will receive a 2/3 share. Retail base rate revenues above the specified revenue caps will be refunded to retail customers on an annual basis. (Paragraphs 4 and 5)

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[1] The Stipulation and Settlement is attached hereto as Attachment A and is incorporated herein by reference.
[2] Although Common Cause Florida and the individual customers had not been granted intervenor status, they signed the stipulation and settlement along with all parties. Under these circumstances and without objection from any party, we found at the August 22 hearing that it was not necessary to make a ruling on the petition to intervene filed by Common Cause Florida and the individual customers.

- If FPL's retail base rate earnings fall below a 10% ROE as reported on a Commission-adjusted or pro-forma basis on an FPL monthly earnings surveillance report during the term of the Stipulation and Settlement, FPL may petition to amend its base rates, and parties to the Stipulation are not precluded from participating in such a proceeding. This provision does not limit FPL from any recovery of costs otherwise contemplated by the Stipulation. (Paragraph 6)

- FPL has the option to amortize up to $125,000,000 annually as a credit to depreciation expense and a debit to the bottom line depreciation reserve over the term of the Stipulation and Settlement and as specified therein. Depreciation rates and/or capital recovery schedules will be established pursuant to the comprehensive depreciation studies as filed in March 2005 and will not be changed during the term of the Stipulation and Settlement. (Paragraph 8)

- Subject to review for prudence and reasonableness, FPL is permitted clause recovery of incremental costs associated with establishment of a Regional Transmission Organization or costs arising from an order of this Commission or the Federal Energy Regulatory Commission addressing any alternative configuration or structure to address independent transmission system governance or operation. (Paragraph 9)

- No party will appeal the Commission's final order in Docket No. 041291-EI addressing recovery of 2004 storm recovery costs. FPL will suspend its current accrual to its storm reserve effective January 1, 2006. Through a separate proceeding, a target level for FPL's storm reserve will be set. Replenishment of the storm reserve to that target level shall be accomplished through securitization under Section 366.8260, Florida Statutes, or through a separate surcharge that is independent of and incremental to retail base rates, as approved by the Commission. (Paragraph 10)

- FPL will suspend its current nuclear decommissioning accrual effective September 1, 2005, and at least through the minimum term of the Stipulation and Settlement. (Paragraph 11)

- New capital costs for expenditures recovered through the Environmental Cost Recovery Clause will be allocated, for the purpose of clause recovery, on a demand basis. (Paragraph 13)

- All post-September 11, 2001, incremental security costs will be recovered through the Capacity Cost Recovery Clause. (Paragraph 14)

- FPL will continue to operate without an authorized ROE range for the purpose of addressing earnings levels, but an ROE of 11.75% shall be used for all other regulatory purposes. (Paragraph 16)

- For any power plant that is approved through the Power Plant Siting Act and that achieves commercial operation within the term of the Stipulation and Settlement, the

> costs of which are not recovered fully through a clause or clauses, FPL's base rates will increase by the annualized base revenue requirement for the first 12 months of operation, reflecting the costs upon which the cumulative present value revenue requirements were or are predicated and pursuant to which a need determination was granted by the Commission. This base rate adjustment will be reflected on FPL's customer bills by increasing base charges and non-clause recoverable credits by an equal percentage and will apply to meter readings made on and after the commercial in-service date of the plant. (Paragraph 17)

Most of the terms of the Stipulation and Settlement appear to be self-explanatory. Still, we believe that several provisions merit comment or clarification so that as full an understanding of the parties' intent can be reflected in this Order before the Stipulation and Settlement is implemented. Based on the parties' discussions with our staff and discussions during our August 24 vote to approve the Stipulation and Settlement, we understand that the parties agree with the clarifications discussed below.

Paragraph 2

Under Paragraph 2, the parties agree that FPL will implement three new tariff offerings: an optional High Load Factor Time-of-Use rate with an adjustment to reflect a 65% load factor breakeven point by class; a Seasonal Demand Time-of-Use rate; and a General Service Constant Use rate. Further, the parties agree that FPL will eliminate the 10 kW exemption from its current rate schedules. We note that these changes are revenue neutral across FPL's demand-metered rate classes but are not revenue neutral within each such class.

Further, the parties agree that the inversion point on FPL's RS-1 (residential service) rate will be raised from 750 kWh to 1,000 kWh. We note that this change is revenue neutral within FPL's residential rate class.

The parties also agree that all gross receipts taxes will be shown as and collected through a separate gross receipts tax line item on bills. Thus, the portion of gross receipts taxes currently embedded in base rates will be removed and consolidated with the portion of gross receipts taxes currently shown separately.

Paragraph 5

Paragraph 5 describes and defines the revenue sharing plan agreed to by the parties. Part c of this paragraph states that the revenue sharing plan and the corresponding revenue sharing thresholds and revenue caps are intended to relate only to retail base rate revenues based on FPL's current structure and regulatory framework. Further, part c indicates that incremental revenues attributable to a business combination or acquisition involving FPL, its parent, or its affiliates will be excluded in determining retail base rate revenues for purposes of the revenue sharing plan. The parties clarified that in the event that a portion of FPL's system is sold or municipalized, appropriate adjustments would be made to account for the associated revenue

reduction before application of FPL's annual average growth rate upon which the revenue sharing thresholds and revenue cap are calculated.

Paragraph 10

Under Paragraph 10, the parties agree that FPL will suspend its current base rate accrual of $20.3 million to its storm reserve account effective January 1, 2006. Further, the parties agree that a target for FPL's storm reserve account will be established in a separate proceeding and that funding the account to the target level will be achieved by either or both of two means: (1) a separate surcharge independent of and incremental to retail base rates; and (2) through the recently enacted provisions of Section 366.8260, Florida Statutes. FPL has committed to pursue continued funding of its storm reserve account within six months.

Paragraph 11

Pursuant to Paragraph 11, the parties agree that FPL will file a nuclear decommissioning study on or before December 12, 2005, but the study shall have no impact on FPL's base rates or charges or the terms of the Stipulation and Settlement. The parties clarified that the filing of this study is intended only for informational purposes and that no Commission action on the study is contemplated.

Paragraph 13

We note that Paragraph 13 reflects a change in practice with respect to the allocation of capital costs recovered through the Environmental Cost Recovery Clause (ECRC). These costs historically have been allocated to customer classes on an energy basis. Under the Stipulation and Settlement, the parties agree that new capital costs for environmental expenditures recovered through the ECRC will be allocated on a demand basis instead, consistent with the treatment of capital costs in a base rate cost of service study.

Paragraph 14

Currently, post-September 11, 2001, incremental security costs related only to power plant security are recovered through the Capacity Cost Recovery Clause (Capacity Clause). Pursuant to Paragraph 14, all post-September 11, 2001, incremental security costs – both power plant and non-plant security costs – will be recovered through the Capacity Clause.

Paragraph 17

The parties clarified that in the event the actual capital cost of a generation project subject to Paragraph 17 is lower than the projected cost, the difference will be reflected as a one-time credit through the Capacity Clause.

Other Matters

Pursuant to a stipulation approved in Order No. PSC-02-1484-FOF-EI, issued October 30, 2002, in Docket No. 011605-EI, FPL currently recovers incremental hedging costs through the Fuel Cost Recovery Clause (Fuel Clause). In its petition for a rate increase, FPL proposed to recover these costs through base rates instead. The Stipulation and Settlement is silent on how incremental hedging costs will be recovered. The parties clarified that they intended for recovery of these costs to continue through the Fuel Clause during the term of the Stipulation and Settlement. Because the Stipulation is silent in this regard, the parties indicated that they would take action to memorialize their intent in this year's Fuel Clause proceedings.

The parties also clarified their intent that, upon approval of this Stipulation and Settlement, Docket No. 050494-EI should be closed. Docket No. 050494-EI was assigned to a joint petition for a decrease in FPL's base rates and charges filed July 19, 2005, by several of the intervenors in this docket.

III. FINDINGS

Upon review and consideration, we find that the Stipulation and Settlement provides a reasonable resolution of the issues in this proceeding with respect to FPL's rates and charges and its depreciation rates and capital recovery schedules. The Stipulation and Settlement appears to provide FPL's customers with a degree of stability and predictability with respect to their electricity rates while allowing FPL to maintain the financial strength to make investments necessary to provide customers with safe and reliable power. Further, the Stipulation and Settlement extends through 2009 a revenue sharing plan which, since its inception in 1999, has resulted in refunds to customers of over $225 million to date. In addition, we recognize that the Stipulation and Settlement reflects the agreement of a broad range of interests: FPL, OPC, the Attorney General, and residential, commercial, industrial, and governmental customers of FPL.

In conclusion, we find that the Stipulation and Settlement establishes rates that are fair, just, and reasonable and that approval of the Stipulation and Settlement is in the public interest. Therefore, we approve the Stipulation and Settlement. As with any settlement we approve, nothing in our approval of this Stipulation and Settlement diminishes this Commission's ongoing authority and obligation to ensure fair, just, and reasonable rates. Nonetheless, this Commission has a long history of encouraging settlements, giving great weight and deference to settlements, and enforcing them in the spirit in which they were reached by the parties.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Stipulation and Settlement filed August 22, 2005, which is attached hereto as Attachment A and incorporated herein by reference, is approved. It is further

ORDERED that FPL shall file, for administrative approval, revised tariff sheets to reflect the terms of the Stipulation and Settlement. It is further

ORDERED that Docket Nos. 050045-EI, 050188-EI, and 050494-EI shall be closed.

By ORDER of the Florida Public Service Commission this 14th day of September, 2005.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

WCK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company.	Docket No. 050045-EI
In re: 2005 comprehensive depreciation study by Florida Power & Light Company.	Docket No. 050188-EI

STIPULATION AND SETTLEMENT

WHEREAS, pursuant to its petition filed March 22, 2005, Florida Power & Light Company (FPL) has petitioned the Florida Public Service Commission (FPSC or Commission) for an increase in base rates and other related relief;

WHEREAS, the Office of the Attorney General (AG), the Office of Public Counsel (OPC), The Florida Industrial Power Users Group (FIPUG), AARP, Florida Retail Federation (FRF), the Commercial Group (CG), the Federal Executive Agencies (FEA), and South Florida Hospital and Healthcare Association (SFHHA) have intervened, and have signed this Stipulation and Settlement (unless the context clearly requires otherwise, the term Party or Parties means a signatory to this Stipulation and Settlement);

WHEREAS, FPL and the Parties to this Stipulation and Settlement recognize that this is a period of unprecedented world energy prices and that this Stipulation and Settlement will mitigate the impact of high energy prices;

WHEREAS, FPL has provided the minimum filing requirements (MFRs) as required by the FPSC and such MFRs have been thoroughly reviewed by the FPSC Staff and the Parties to this proceeding;

WHEREAS, FPL has filed comprehensive testimony in support of and detailing its MFRs;

WHEREAS, on March 16, 2005, FPL filed comprehensive depreciation studies in accordance with FPSC Rule 25-6.0436(8)(a), Florida Administrative Code;

WHEREAS, the parties in this proceeding have conducted extensive discovery on the MFRs, depreciation studies, and FPL's testimony;

WHEREAS, the discovery conducted has included the production and opportunity to inspect more than 315,000 pages of information regarding FPL's costs and operations;

WHEREAS, the Parties to this Stipulation and Settlement have undertaken to resolve the issues raised in these proceedings so as to maintain a degree of stability to FPL's base rates and charges, and to provide incentives to FPL to continue to promote efficiency through the term of this Stipulation and Settlement;

WHEREAS, FPL is currently operating under a stipulation and settlement agreement agreed to by OPC and other parties, and approved by the FPSC by Order PSC-02-0501-AS-EI, issued April 11, 2002, in Docket Nos. 001148-EI and 020001-EI (2002 Agreement);

WHEREAS, previous to the 2002 Agreement, FPL operated under a stipulation and settlement agreement approved by the FPSC in Order No. PSC 99-0519-AS-EI (1999 Agreement);

WHEREAS, the 1999 and 2002 Agreements, combined, provided for a reduction of $600 million in FPL's base rates, and include revenue sharing plans that have resulted in refunds to customers to date in excess of $225 million;

WHEREAS, the 1999 and 2002 Agreements and revenue sharing plans have provided significant benefits to customers, resulting in approximately $4 billion in total savings to FPL's customers through the end of 2005;

WHEREAS, during 2005 FPL has added two new power plants in Martin and Manatee Counties at installed costs totaling approximately $887 million without increasing base rates;

WHEREAS, FPL must make substantial investments in the construction of new electric generation and other infrastructure for the foreseeable future in order to continue to provide safe and reliable power to meet the growing needs of retail customers in the state of Florida; and

WHEREAS, an extension of the revenue sharing plan and preservation of the benefits for customers of the $600 million reduction in base rates provided for in the 1999 and 2002 Agreements during the period in which this Stipulation and Settlement is in effect, and other provisions as set forth herein, including the provision for the incremental base rate recovery of costs associated with the addition of electric generation, will further be beneficial to retail customers;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. Upon approval and final order of the FPSC, this Stipulation and Settlement will become effective on January 1, 2006 (the "Implementation Date"), and shall continue through December 31, 2009 (the "Minimum Term"), and thereafter shall remain in effect until terminated on the date that new base rates become effective pursuant to order of the FPSC following a formal administrative hearing held either on the FPSC's own motion or on request made by any of the Parties to this Stipulation and Settlement in accordance with Chapter 366, Florida Statutes.

2. FPL's retail base rates and base rate structure shall remain unchanged, except as otherwise permitted in this Stipulation and Settlement. The following tariff changes shall be approved and implemented:

a. (i) As reflected in FPL's MFR E-14, institution of the optional High Load Factor Time-of-Use rate with an adjustment to reflect a 65% load factor breakeven point by rate class, the Seasonal Demand Time-of-Use rate, and the General Service Constant Use Rate;

(ii) Elimination of the 10 kW exemption from rates.

(iii) The combined adjustments to implement (i) and (ii) above shall be made on a revenue neutral basis with reference to the 2006 forecast reflected in MFR E-13(c) at present base rates.

b. Raising the inversion point on the RS-1 rate from 750 kWh to 1,000 kWh, on a revenue neutral basis with reference to the 2006 forecast reflected in MFR E-13(c) at present base rates.

c. Consolidation and collection of all gross receipts taxes, including existing gross receipts taxes embedded in base rates, through the separate gross receipts tax line item on bills, on a revenue neutral basis with reference to the 2006 forecast reflected in MFR E-13(c) at present base rates.

d. At any time during the term of the Stipulation and Settlement and subject to Commission approval, any new or revised tariff provisions or rate schedules requested by FPL, provided that such tariff request does not increase any existing base rate component of a tariff or rate schedule during the term of the

Stipulation and Settlement unless the application of such new or revised tariff or rate schedule is optional to the utility's customers.

3. Except as provided in Section 1, no Party to this Stipulation and Settlement will request, support, or seek to impose a change in the application of any provision hereof. AG, OPC, FIPUG, AARP, FRF, FEA, CG, and SFHHA will neither seek nor support any reduction in FPL's base rates and charges, including interim rate decreases, to take effect prior to the end of the Minimum Term of this Stipulation and Settlement unless a reduction request is initiated by FPL. FPL will not petition for an increase in its base rates and charges, including interim rate increases, to take effect for meter readings before the end of the Minimum Term except as provided for in Section 6. During the term of this Stipulation and Settlement, except as otherwise provided for in this Stipulation and Settlement, or except for unforeseen extraordinary costs imposed by government agencies relating to safety or matters of national security, FPL will not petition for any new surcharges, on an interim or permanent basis, to recover costs that are of a type that traditionally and historically would be, or are presently, recovered through base rates.

4. During the term of this Stipulation and Settlement, revenues which are above the levels stated herein below in Section 5 will be shared between FPL and its retail electric utility customers -- it being expressly understood and agreed that the mechanism for earnings sharing herein established is not intended to be a vehicle for "rate case" type inquiry concerning expenses, investment, and financial results of operations.

5. Commencing on the Implementation Date and for the calendar years 2006, 2007, 2008 and 2009, and continuing thereafter until terminated, FPL will be under a Revenue Sharing Incentive Plan as set forth below. For purposes of this Revenue Sharing Incentive Plan, the following retail base rate revenue threshold amounts are established:

a. Sharing Threshold - Retail base rate revenues between the sharing threshold amount and the retail base rate revenue cap as defined in Section 5(b) below will be divided into two shares on a 1/3, 2/3 basis. FPL's shareholders shall receive the 1/3 share. The 2/3 share will be refunded to retail customers. The sharing threshold for 2006 will be established by using the 2005 sharing threshold of $3,880 million in retail base rate revenues, increased by the average annual growth rate in retail kWh sales for the ten year period ending December 31, 2005. For each succeeding calendar year or portion thereof during which the Stipulation and Settlement is in effect, the succeeding calendar year retail base rate revenue sharing threshold amounts shall be established by increasing the prior year's threshold by the sum of the following two amounts: (i) the average annual growth rate in retail kWh sales for the ten calendar year period ending December 31 of the preceding year multiplied by the prior year's retail base rate revenue sharing threshold and (ii) the amount of any incremental GBRA revenues in that year. The GBRA is described in Section 17.

b. Revenue Cap - Retail base rate revenues above the retail base rate revenue cap will be refunded to retail customers on an annual basis. The retail base rate revenue cap for 2006 will be established by using the 2005 cap of $4,040 million in retail base rate revenues, increased by the average annual growth rate in retail kWh sales for the ten calendar year period ending December 31, 2005. For each succeeding calendar year or portion thereof during which the Stipulation and Settlement is in effect, the succeeding calendar year retail base rate revenue cap amounts shall be established by increasing the prior year's cap by the sum of the following two amounts: (i) the average annual growth rate in retail kWh sales for the ten calendar year period ending December 31 of the

preceding year multiplied by the prior year's retail base rate revenue cap amount and (ii) the amount of any incremental GBRA revenues in that year.

c. Revenue exclusions - The Revenue Sharing Incentive Plan and the corresponding revenue sharing thresholds and revenue caps are intended to relate only to retail base rate revenues of FPL based on its current structure and regulatory framework. Thus, for example, incremental revenues attributable to a business combination or acquisition involving FPL, its parent, or its affiliates, whether inside or outside the state of Florida, or revenues from any clause, surcharge or other recovery mechanism other than retail base rates, shall be excluded in determining retail base rate revenues for purposes of revenue sharing under this Stipulation and Settlement.

d. Refund mechanism - Refunds will be paid to customers as described in Section 7.

e. Calculation of sharing threshold and revenue cap for partial calendar years – In the event that this Stipulation and Settlement is terminated other than at the end of a calendar year, the sharing threshold and revenue cap for the partial calendar year shall be determined at the end of that calendar year by (i) dividing the retail kWh sales during the partial calendar year by the retail kWh for the full calendar year, and (ii) applying the resulting fraction to the sharing threshold and revenue cap for the full calendar year that would have been calculated as set forth in Sections 5(a) and 5(b) above.

f. Calculation of annual average growth rate - For purposes of this Section 5, the average annual growth rate shall be calculated by summing the percentage change in retail kWh sales for each year in the relevant ten year period and dividing by 10.

6. If FPL's retail base rate earnings fall below a 10% ROE as reported on an FPSC adjusted or pro-forma basis on an FPL monthly earnings surveillance report during the term of this Stipulation and Settlement, FPL may petition the FPSC to amend its base rates notwithstanding the provisions of Section 3, either as a general rate proceeding or as a limited proceeding under Section 366.076, Florida Statutes. Parties to this Stipulation and Settlement are not precluded from participating in such a proceeding, and, in the event that FPL petitions to initiate a limited proceeding under this Section 6, any Party may petition to initiate any proceeding otherwise permitted by Florida law. This Stipulation and Settlement shall terminate upon the effective date of any Final Order issued in such proceeding that changes FPL's base rates. This paragraph shall not be construed to bar or limit FPL from any recovery of costs otherwise contemplated by this Stipulation and Settlement.

7. All revenue-sharing refunds will be paid with interest at the 30-day commercial paper rate to retail customers of record during the last three months of each applicable refund period based on their proportionate share of base rate revenues for the refund period. For purposes of calculating interest only, it will be assumed that revenues to be refunded were collected evenly throughout the preceding refund period. All refunds with interest will be in the form of a credit on the customers' bills beginning with the first day of the first billing cycle of the second month after the end of the applicable refund period (or, in the case of a partial calendar year refund, after the end of that calendar year). Refunds to former customers will be completed as expeditiously as reasonably possible.

8. Starting with the effective date of this Stipulation and Settlement, FPL may, at its option, amortize up to $125,000,000 annually as a credit to depreciation expense and a debit to the bottom line depreciation reserve over the term of this Stipulation and Settlement. Any such

reserve amount will be applied first to reduce any reserve excesses by account, as determined in FPL's depreciation studies filed after the term of this Stipulation and Settlement, and thereafter will result in reserve deficiencies. Any such reserve deficiencies will be allocated to individual reserve balances based on the ratio of the net book value of each plant account to total net book value of all plant. The amounts allocated to the reserves will be included in the remaining life depreciation rate and recovered over the remaining lives of the various assets. Additionally, depreciation rates and/or capital recovery schedules shall be established pursuant to the comprehensive depreciation studies as filed March 16, 2005 and will not be changed for the term of this Stipulation and Settlement.

9. FPL will be permitted clause recovery of prudently incurred incremental costs associated with the establishment of a Regional Transmission Organization or any other costs arising from an order of the FPSC or the Federal Energy Regulatory Commission addressing any alternative configuration or structure to address independent transmission system governance or operation. Any Party to this Stipulation and Settlement may participate in any proceeding relating to the recovery of costs contemplated in this section for the purpose of challenging the reasonableness and prudence of such costs, but not for the purpose of challenging FPL's right to clause recovery of such costs.

10. No Party to this Stipulation and Settlement shall appeal the FPSC's Final Order in Docket No. 041291-EI. Further, Parties agree to the following provisions relative to the target level and funding of Account No. 228.1 and recovery of any deficits in such Account:

a. The target level for Account No. 228.1 shall be as established by the Commission, whether on its own motion, upon petition by FPL, or in conjunction with a proceeding held in accordance with Section 366.8260,

Florida Statutes. FPL will be permitted to recover prudently incurred costs associated with events covered by Account No. 228.1 and replenish Account No. 228.1 to a target level through charges to customers, that are approved by the Commission, that are independent of and incremental to base rates and without the application of any form of earnings test or measure. The fact that insufficient funds have been accumulated in Account No. 228.1 to cover costs associated with events covered by that Account shall not be evidence of imprudence or the basis of a disallowance. Replenishment of Account No. 228.1 to a target level approved by the Commission and/or the recovery of any costs incurred in excess of funds accumulated in Account No. 228.1 and insurance shall be accomplished through Section 366.8260, Florida Statutes, and/or through a separate surcharge that is independent of and incremental to retail base rates, as approved by the Commission. Parties to this Stipulation and Settlement are not precluded from participating in such a proceeding, nor precluded from challenging the amount of such target level or whether recovery should be accomplished either through Section 366.8260, Florida Statutes or through a separate surcharge.

b. The current base rate accrual to Account No. 228.1 of $20.3 million is suspended effective January 1, 2006.

c. No revenues contemplated by this Section 10 shall be included in the computation of retail base rate revenues for purposes of revenue sharing under this Stipulation and Settlement.

11. The current decommissioning accrual of $78,516,937 (jurisdictional) approved in Order No. PSC-02-0055-PAA-EI shall be suspended effective September 1, 2005 and shall remain suspended through the Minimum Term and, at the Company's option, for any additional period during which this Stipulation and Settlement remains in effect. FPL's decommissioning study to be filed on or before December 31, 2005 shall have no impact on FPL's base rates, charges, or the terms of this Stipulation and Settlement.

12. The portion of St. Johns River Power Park ("SJRPP") capacity costs and certain capacity revenues that are currently embedded in base rates shall continue to be recovered through base rates in the current manner as contemplated by Order No. PSC-92-1334-FOF-EI.

13. New capital costs for environmental expenditures recovered through the Environmental Cost Recovery Clause will be allocated, for the purpose of clause recovery, consistent with FPL's current cost of service methodology.

14. Post-September 11, 2001 incremental security costs shall remain in and be recovered through the Capacity Clause.

15. For surveillance reporting requirements and all regulatory purposes, FPL's ROE will be calculated based upon an adjusted equity ratio as follows. FPL's adjusted equity ratio will be capped at 55.83% as included in FPL's projected 1998 Rate of Return Report for surveillance purposes. The adjusted equity ratio equals common equity divided by the sum of common equity, preferred equity, debt and off-balance sheet obligations. The amount used for off-balance sheet obligations will be calculated per the Standard & Poor's methodology.

16. Effective on the Implementation Date, FPL will continue to operate without an authorized Return on Equity (ROE) range for the purpose of addressing earnings levels, and the

revenue sharing mechanism herein described will be the appropriate and exclusive mechanism to address earnings levels, but an ROE of 11.75% shall be used for all other regulatory purposes.

17. For any power plant that is approved pursuant to the Florida Power Plant Siting Act (PPSA) and achieves commercial operation within the term of this Stipulation and Settlement, the costs of which are not recovered fully through a clause or clauses, FPL's base rates will be increased by the annualized base revenue requirement for the first 12 months of operation, reflecting the costs upon which the cumulative present value revenue requirements (CPVRR) were or are predicated, and pursuant to which a need determination was granted by the FPSC, such adjustment to be reflected on FPL's customer bills by increasing base charges, and non-clause recoverable credits, by an equal percentage. FPL will begin applying the incremental base rate charges required by this Stipulation and Settlement to meter readings made on and after the commercial in service date of any such power plant. Such adjustment shall be referred to as a Generation Base Rate Adjustment (GBRA). The GBRA will be calculated using an 11.75% ROE and the capital structure as per Section 15 above. FPL will calculate and submit for Commission confirmation the amount of the GBRA using the Capacity Clause projection filing for the year that the plant is to go into service. In the event that the actual capital costs of generation projects are lower than were or are projected in the need determination proceeding, the difference will be flowed back via a true-up to the Capacity Clause. In the event that actual capital costs for such power plant are higher than were projected in the need determination proceeding, FPL at its option may initiate a limited proceeding per Section 366.076, Florida Statutes, limited to the issue of whether FPL has met the requirements of Rule 25-22.082(15), Florida Administrative Code. If the Commission finds that FPL has met the requirements of Rule 25-22.082(15), FPL shall increase the GBRA by the corresponding incremental revenue

requirement due to such additional capital costs. However, FPL's election not to seek such an increase in the GBRA shall not preclude FPL from booking any incremental costs for surveillance reporting and all regulatory purposes subject only to a finding of imprudence or disallowance by the Commission. Upon termination of the Stipulation and Settlement, FPL's base rate levels, including the effects of any GBRA, shall continue in effect until next reset by the Commission. Any Party to this Stipulation and Settlement may participate in any such limited proceeding for the purpose of challenging whether FPL has met the requirements of Rule 25-22.082(15). A GBRA shall be implemented upon commercial operation of Turkey Point Unit 5, currently projected to occur in mid-2007, by increasing base rates by the estimated annual revenue requirement exclusive of fuel of the costs upon which the CPVRR for Turkey Point Unit 5 were predicated, and pursuant to which a need determination was granted by the FPSC in Order No. PSC-04-0609-FOF-EI, such adjustment to be reflected on FPL's customer bills by increasing base charges and non-clause recoverable credits, by an equal percentage. FPL will begin applying the incremental base rate charges required by this Stipulation and Settlement to meter readings made on and after the commercial in service date of Turkey Point Unit 5.

18. This Stipulation and Settlement is contingent on approval in its entirety by the FPSC. This Stipulation and Settlement will resolve all matters in these Dockets pursuant to and in accordance with Section 120.57(4), Florida Statutes. This Docket will be closed effective on the date the FPSC Order approving this Stipulation and Settlement is final.

19. All Parties to this Stipulation and Settlement agree to endorse and support the Stipulation and Settlement before the FPSC and any other administrative or judicial tribunal, and in any other forum.

20. This Stipulation and Settlement dated as of August 22, 2005 may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Stipulation and Settlement by their signature.

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Common Cause, Florida
& individual customers

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 ORDER NO. PSC-11-0089-S-EI ISSUED: February 1, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO BALBIS
JULIE I. BROWN

ORDER APPROVING PROPOSED STIPULATION AND SETTLEMENT, DENYING MOTION FOR RECONSIDERATION, AND DENYING PETITION FOR A BASE RATE PROCEEDING

BY THE COMMISSION:

BACKGROUND

On March 17, 2010, the Commission issued Order No. PSC-10-0153-FOF, granting in part and denying in part Florida Power & Light Company's (FPL or Company) request for a permanent rate increase and setting depreciation and dismantlement rates and schedules (Final Order) in Docket Nos. 080677-EI and 090130-EI. The Final Order was issued as a result of the Commission's vote on FPL's revenue requirements and rates at the Commission's January 13 and January 29, 2010, Special Agenda Conferences. The Final Order was a culmination of the rate case proceedings which commenced on March 18, 2009, with the filing of a petition for a permanent rate increase by FPL. The Office of Public Counsel (OPC), the Office of the Attorney General (AG), the Florida Industrial Power Users Group (FIPUG), The Florida Retail Federation (FRF), the Florida Association for Fairness in Rate Making (AFFIRM), the Federal Executive Agencies (FEA), South Florida Hospital and Healthcare Association (SFHHA), the Associated Industries of Florida (AIF), the City of South Daytona, Florida (South Daytona), the I.B.E.W. System Council U-4 (SCU-4), the FPL Employees Intervenors (Employee Intervenors), Thomas Saporito (Saporito), and Richard Unger (Unger) intervened in this proceeding. Only FPL, OPC, FIPUG, SFHHA, and Saporito filed post-decision motions.

On January 19, 2010, Saporito, who withdrew from the docket three days prior to the Prehearing Conference, filed a petition for a base rate proceeding, asking that we use the

evidentiary record from this docket to reach a different decision. Since Saporito's petition was filed after our decision setting forth the revenue requirements, his petition is addressed herein.

On April 1, 2010, both FPL and FIPUG filed Motions for Reconsideration. FPL included in its motion a Motion for Clarification. On April 8, 2010, OPC, SFHHA, and FIPUG filed responses to FPL's Motion for Reconsideration and for Clarification. On that same date, FPL filed a response to FIPUG's Motion for Reconsideration. On April 16, 2010, FPL filed a Motion for Leave to File Response to SFHHA's Response to FPL's Motion for Reconsideration and Clarification. On July 22, 2010, Commission staff filed its recommendation on the Motions for Reconsideration. At the August 17, 2010 Agenda Conference, we voted to deny FPL's request that we reconsider a portion of the working capital adjustment for cost recovery clause overrecoveries. Our decision on that matter is set forth herein. Consideration of the remaining issues was deferred to the August 31, 2010, Agenda Conference.

On August 20, 2010, FPL filed an Agreed Motion for Approval of Settlement Agreement to resolve all of the outstanding matters in Docket Nos. 080677-EI and 090130-EI. The signatories to the Stipulation and Settlement (Stipulation) are FPL, OPC, AG, FIPUG, FRF, SFHHA, FEA, and AIF (Joint Movants). Staff withdrew its recommendation on the reconsideration requests upon receipt of the Stipulation. The Stipulation does not affect our vote on August 17 on the working capital portion of the motion for reconsideration. On August 26, 2010, Commission staff sent data requests to all parties seeking clarification of certain aspects of the Stipulation. The responses were filed in the docket file on September 7 and 8, 2010.

On September 8, 2010, FPL filed a Petition for Writ of Prohibition in the First District Court of Appeal, and on September 10, 2010, the court issued an order requiring the Commission to show cause why the petition should not be granted. This order operated to stay this Commission from proceeding further on this as well as other FPL-related dockets, pending resolution by the court. On December 10, 2010, the court granted the Commission's unopposed request to relinquish jurisdiction for consideration of approval of the Stipulation in this docket; that matter was addressed at the December 14, 2010 Agenda Conference. The court acknowledged FPL's voluntary dismissal of its petition by order dated January 4, 2011, and the remaining issues in these dockets were addressed at the January 11, 2011, Agenda Conference.

This order addresses our vote denying reconsideration of the working capital issue at the August 17, 2010, Agenda Conference, the proposed Stipulation, and Saporito's petition. We have jurisdiction over these matters pursuant to Chapter 366, Florida Statutes, (F.S.), including Sections 366.041, 366.06, 366.07, and 366.076, F.S.

DENYING REQUEST FOR RECONSIDERATION[1]

In its Motion for Reconsideration of the Final Order, FPL requests that we reconsider a portion of the $101,971,000 working capital adjustment for cost recovery clause overrecoveries (hearing Issue 46). Specifically, FPL contends the computation of the over-recovery overlooks

[1] Commissioners Argenziano, Edgar, and Skop participated in this portion of the decision; Commissioner Edgar dissented on a procedural basis.

and is inconsistent with a recent Commission decision in the 2009 fuel adjustment proceeding,[2] thereby overstating the impact on test year working capital of the projected 2010 fuel cost overrecovery. In its base rate filing, FPL assumed the established practice for fuel clause true-ups of overrecoveries and underrecoveries: the projected overrecovery from 2009 would be reflected in the 2010 fuel clause factor and hence the refund would occur ratably throughout calendar year 2010. This practice resulted in FPL forecasting an average balance due customers over the course of the test year totaling $94.5 million, which reduces working capital requirements by that amount. However, we directed FPL to refund the full amount of its 2009 net true-up overrecovery as a one-time credit in January 2010.

Had FPL forecasted in the minimum filing requirements (MFRs) for 2010 that the fuel cost overrecovery would be refunded in January 2010 instead of ratably over the calendar year, the average fuel cost overrecovery balance would be reduced from $94.5 million to $66.3 million, which has the effect of increasing FPL's test year working capital requirements, and thereby rate base, by $28.1 million

None of the Intervenors has taken a position on the appropriateness of FPL's request for reconsideration of the adjustment made in this issue.

Upon consideration of the argument, we find it appropriate to deny FPL's request for reconsideration of a portion of the working capital adjustment for cost recovery clause overrecoveries.

APPROVING PROPOSED STIPULATION AND SETTLEMENT[3]

The Joint Movants have proffered the proposed Stipulation (Attachment 1) as a complete resolution of all matters pending in Docket Nos. 080677-EI and 090130-EI. The major elements contained in the Stipulation are:

- Current base rates frozen through the last billing cycle in December 2012 unless return on equity falls below 9.00 percent. (Paragraphs 1 and 6)
- Recovery of storm damage costs and storm damage reserve replenishment (not to exceed $4.00/1,000 kilowatt-hour (kWh) monthly for residential customers) will begin, on an interim basis, 60 days following the filing of a petition. (Paragraph 3)
- Recovery of the West County Unit 3 non-fuel revenue requirements equal to the projected fuel savings associated with the operation of the unit until the next base rate proceeding. The recovery will be accomplished through the capacity cost recovery clause. (Paragraph 5)

[2] Order No. PSC-09-0795-FOF-EI, issued December 2, 2009, in Docket No. 090001-EI, In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.
[3] Commissioners Graham, Edgar, Skop, Brisé, and Balbis participated in this part of the decision.

- Discretion to amortize the theoretical depreciation reserve surplus up to $267 million each calendar year in 2010, 2011, and 2012, not to exceed a total of $776 million. (Paragraph 7)

The proposed Stipulation consists of 11 paragraphs of agreement among the Joint Movants. We find that several of the paragraphs merit comment or clarification. These are as follows:

Paragraph 3: Paragraph 3 addresses storm damage cost recovery. After 60 days following the filing of a petition seeking recovery of storm damage costs, the Joint Movants have agreed that FPL will be allowed to implement, on an interim basis, a monthly storm cost recovery surcharge of up to $4.00/1,000 kWh on residential customer bills based on a 12-month recovery period. If the storm costs exceed that level, any additional costs will be recovered in a subsequent year(s) as determined by this Commission. However, if FPL incurs storm damage in excess of $800 million, FPL reserves the right to petition us to increase the initial 12-month recovery above the $4.00/1,000 kWh level. The Joint Movants have also agreed that FPL's earnings level will not be an issue at the time any request for storm damage cost recovery is made.

Under the Final Order, FPL is no longer authorized to make any accruals to the storm damage reserve. Paragraph 3 allows FPL to use the surcharge to replenish its storm damage reserve to the level as of the implementation date of the Stipulation if it is totally depleted. It is estimated that the storm damage reserve level as of the implementation date will be approximately $201 million. Based on the $4.00/1,000 kWh monthly cap for residential customers, the annual amount of the surcharge would be $220 million for residential customers and a total of $377 million for all of FPL's customers in the event of a major storm.

Paragraph 4: Paragraph 4 addresses recovery of the costs of capital projects or other costs not currently recovered in base rates through various cost recovery clauses. According to FPL and the intervenors, this paragraph does not preclude or prevent FPL from petitioning for cost recovery through a clause for capital projects not currently recovered in base rates. We note that while the stipulation "freezes" base rates, it allows flexibility for FPL to petition for recovery of base rate costs through various cost recovery clauses. We further note that our review of such petitions would be on a case-by-case basis and that intervenors can oppose any such petition.

Examples of costs for which FPL could request recovery through a cost recovery clause would be incremental cybersecurity costs (capacity clause), the cost of projects not included in base rates and which result in fuel savings (fuel clause), and the cost of environmental compliance equipment and qualifying solar projects (environmental clause). Further, new or atypical costs imposed by an authorized governmental entity could be considered for recovery through a cost recovery clause. An example of costs that FPL could not recover through a clause would be increases in typical capital costs such as investment in transmission assets.

Paragraph 5: Under Paragraph 5, FPL would be allowed to collect annually through the capacity cost recovery clause that portion of the annual revenue requirement associated with

West County Unit 3 (WEC 3) that equals the projected annual fuel savings. According to the Stipulation, the fuel savings amount would be calculated by modeling FPL's system with and without the addition of WEC 3. The applicable fuel price forecast would be the same forecast that is used to calculate FPL's fuel factors in the fuel and purchased power cost recovery proceeding. It should be noted that the amount of the WEC 3 revenue requirements recovered from the ratepayers will be based solely on the projected amount of fuel savings. Regardless of the subsequent actual amount of fuel savings, no adjustment would be made to the revenue requirement recovered through the capacity cost recovery clause for any difference between the projected and actual amounts of fuel savings. The calculation of fuel savings can be reviewed and contested by the intervenors. In addition, according to FPL, the revenue requirements for WEC 3 for 2011 and 2012 would exceed the fuel savings. However, only the amount equal to the projected fuel savings would be passed through the capacity cost recovery clause.

Paragraph 5(b) of the Stipulation specifies that the projected non-fuel annual revenue requirements associated with WEC 3 will reflect the costs upon which the cumulative present value revenue requirements were predicated, and pursuant to which a need determination was granted by this Commission in Order No. PSC-08-0591-FOF-EI,[4] as adjusted by the application of a 10.00 percent return on equity (ROE), in lieu of the ROE that was used in the determination of need proceeding. According to FPL, the application of a 10.00 percent ROE as specified by Paragraph 5(b) results in an overall cost of capital of 8.42 percent. In the Final Order, we approved an overall cost of capital of 6.65 percent. The 2011 revenue requirements for WEC 3, based on the cost of capital prescribed in the Stipulation, is approximately $14.3 million greater than the revenue requirements for WEC 3 based on the cost of capital approved in the Final Order.[5]

The fuel savings would be passed on to the ratepayers through the fuel clause on an energy, or kilowatt hour (kWh) basis, while the revenue requirement would be collected through the capacity cost recovery clause, on a demand, or kilowatt (kW) basis. While on a total retail basis there would be no impact from including WEC 3, various rate classes will see slightly different bill impacts depending on their energy versus demand consumption. For example, the residential class typically places more demand on the system when compared to their energy consumption. Thus, the revenue requirement amount allocated to the residential class in the capacity cost recovery clause would be greater than the corresponding fuel savings amount allocated to the residential class in the fuel clause. In response to Commission Staff's Data Request, FPL projects the 1,000 kWh residential bill to be $100.45 for the period January through May 2011, prior to the inclusion of WEC 3 in rates. For the period June through December 2011, after the inclusion of WEC 3, FPL projects the 1,000 kWh residential bill to be $100.61, or $0.16 higher (including gross receipts tax). Conversely, industrial customers, who are typically large energy users, are expected to see a slight reduction in their bills as a result of the fuel savings attributable to WEC 3.

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[4] Issued September 12, 2008, in Docket No. 080203-EI, In re: Petition to determine need for West County Energy Center Unit 3 electrical power plant, by Florida Power & Light Company.

[5] Based on the projected revenue requirements for the period June 2011 – December 2011, or the 7 months WEC 3 is expected to be in commercial service in 2011.

Paragraph 6: Under Paragraph 6, FPL can petition us to amend its base rates if its actual, adjusted earned ROE falls below 9 percent, per its monthly earnings surveillance report (ESR), during the term of the Stipulation. The Company can petition us to amend base rates in a general rate proceeding or a limited proceeding. Likewise, any party can petition us to review FPL's base rates if the Company's actual, adjusted earned ROE exceeds 11 percent, as reported on the Company's monthly ESR, during the term of the Stipulation.

Paragraph 6 does not bar FPL from recovery of costs otherwise contemplated by the Stipulation; does not apply to requests to change FPL's base rates that would become effective after the Stipulation expires; and does not limit any party's rights in proceedings to change base rates in proceedings allowed by Paragraph 6.

Paragraph 7: Paragraph 7 addresses the amortization of the $894 million depreciation reserve surplus (Total Depreciation Surplus) we identified in the Final Order. By the terms of this paragraph, FPL would be given flexibility in the amount of reserve surplus amortization it would record in each year of the 3-year settlement period. The Joint Movants have agreed that FPL would amortize an amount of the Total Depreciation Surplus necessary for it to maintain an ROE, measured on a Commission actual, adjusted basis, of at least 9 percent and no more than 11 percent in each 12-month period of the settlement term. The maximum annual amortization amount is $267 million and the maximum 3-year total amortization amount is $776 million, unless a greater amortization amount is needed to avoid a surveillance report showing earnings of less than 9 percent in any given year. Additionally, FPL is required to use the remaining available Total Depreciation Surplus for the purpose of increasing its earned ROE to at least 9 percent before initiating a petition to increase base rates.

If FPL records less than $267 million in a given year, it is permitted to carry forward and increase the maximum yearly amortization that may be recorded in a subsequent year of the settlement term. For example, if FPL records an amortization of $200 million in 2010 so that its ROE is in the 9 percent to 11 percent range, it would be permitted to carry forward and record in 2011 or 2012 the $67 million difference between the amount booked and the yearly cap of $267 million, in addition to the $267 million capped amount for 2011. To the extent there exists any remaining unamortized reserve surplus at the end of the 3-year settlement period, FPL would amortize it in 2013 in accord with the 4-year amortization period approved in the Final Order unless we require a different result pursuant to a final rate order effective on or after January 1, 2013.

Paragraph 9: Paragraph 9 provides that the cost of service and rate design issues remain as set forth in the Final Order. This paragraph also allows FPL to request approval of new or revised rate schedules or tariff provisions, provided that such request does not increase any base rates during the term of the Stipulation unless the new or revised tariff is optional.

We have reviewed the terms of the Stipulation, and believe that the Stipulation provides a reasonable resolution of the outstanding issues in Docket Nos. 080677-EI and 090130-EI and is in the public interest. Therefore, the proposed Stipulation is hereby approved.

DENYING SAPORITO'S PETITION FOR BASE RATE PROCEEDING[6]

On January 19, 2010, six days after we voted on FPL's petition for a general rate case, Thomas Saporito filed a Petition for the Conduct of a General Rate Case and Request for Hearing and Leave to Intervene. Saporito asks that we conduct a general investigation and/or a general rate case of FPL's rates as approved at the January 13, 2010, Agenda Conference, and that we determine whether FPL's rates, effective as of that date, should be reduced and/or refunded.

Saporito states that he intends to rely upon the evidence and testimony filed in Docket No. 080677-EI. He states that the disputed issues of material fact will include, but will not be limited to, whether FPL's current electric rates should be decreased. Saporito states he reserves the right to identify and develop additional issues as the docket progresses.

We deny Saporito's petition for base rate proceeding because it fails to meet the criteria established in Rule 28-106.201, Florida Administrative Code (F.A.C.). We find that the petition fails to allege any disputed issues of material fact which we have not already resolved by the issuance of the Final Order.

It is our opinion that this petition would be nothing more than a rehearing of the prior proceeding. We heard, considered, and rendered our decision based on the evidence in the record. Included in the record is testimony filed by Saporito, OPC, and other intervenors, arguing for a rate decrease. Saporito states he will rely on that same evidentiary record in the new proceeding for a rate decrease. Therefore, we have already resolved all issues of disputed fact which were before us regarding the rates that FPL would charge.

Furthermore, Saporito's interests were represented in this docket. Saporito participated as a party in the FPL rate case docket; he was granted intervenor status by Order No. PSC-09-0280-PCO-EI, issued April 29, 2009. Saporito filed testimony and evidence in the docket, conducted discovery, and filed a prehearing statement. On August 13, 2009, 4 days prior to the Prehearing Conference, Saporito withdrew from the docket citing health reasons, and the withdrawal was accepted by the Prehearing Officer. The hearing was conducted over several weeks in August, September and October. On October 2, 2009, Saporito filed a Withdrawal of his Motion to Withdraw, which was denied by the presiding officer as an untimely new petition to intervene. See Order No. PSC-09-0687-PCO-EI, issued October 14, 2009.

While Saporito was not physically present at the technical hearings in the proceeding, his and all other consumers' interests were represented by both OPC and AG. By statute, OPC provides "legal representation for the people of the state [of Florida] in proceedings before the [Public Service] commission . . . ." Section 367.0611, F.S. The AG, as chief legal officer of the state of Florida, was granted intervention on behalf of the state of Florida. As part of his position in the request to intervene, the AG cited State ex. Rel. Shevin v. Yarborough, 257 So. 2d 891 (Fla. 1972) for the proposition that "there is no statute which prohibits the Attorney General from

[6] Commissioners Graham, Edgar, Brisé, Balbis, and Brown participated in this part of the decision.

representing the State of Florida as a consumer, and offering such evidence and argument as will benefit its citizens." See Order No. PSC-09-0289-PCO-EI, issued May 1, 2009, in this docket.

The petition for a new base rate proceeding seeks a different decision, a reduction of base rates, on the same factual record as was used by this Commission to reach our decision in the Final Order. Saporito participated in the issues that were ultimately decided by this Commission in the Final Order. Therefore, Saporito's petition fails to state any material issue of disputed fact and shall be dismissed as failing to meet the requirements of Rule 28-106.201, F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that FPL's request for reconsideration regarding fuel clause overrecoveries is denied. It is further

ORDERED that the Joint Movants' proposed Stipulation is approved as set forth herein. It is further

ORDERED that the Petition for Base Rate Proceeding filed by Mr. Thomas Saporito is denied. It is further

ORDERED that these dockets shall be closed upon the expiration of the time for appeal.

By ORDER of the Florida Public Service Commission this 1st day of February, 2011.

ANN COLE
Commission Clerk

(SEAL)

JSC

CONCURRENCE BY: COMMISSIONER SKOP

COMMISSIONER SKOP, concurring with a separate opinion:

The settlement agreement validates the Commission's prior decision in the Florida Power & Light Company (FPL) rate case in all material aspects including the authorized Return on Equity (ROE). Specifically, the settlement agreement freezes base rates protecting FPL customers from base rate increases through 2012, while ensuring the financial health and integrity of the utility by affording FPL the ability to manage its earnings for financial reporting purposes. The settlement agreement also provides for the cost recovery of the West County Three (WEC-3) CCCT generating unit, limited to smaller of the projected fuel savings or revenue requirement, when the plant enters commercial service in 2011 thereby avoiding the need to conduct a limited proceeding. Accordingly, the settlement agreement represents constructive regulation which avoids protracted litigation and promotes a constructive regulatory environment.

One of the most important aspects of the settlement agreement, however, is that the authorized ROE encompassed by the settlement agreement (i.e., an authorized midpoint ROE of 10% plus or minus 100 basis points) is exactly the same as it was decided by the Commission in the FPL rate case.

Finally, one point which is extremely important to recognize, and which may have been overlooked, is that the settlement agreement arose from the decision of the Commission in the FPL rate case. While that decision was criticized, history has shown that the Commission (including three honorable Commissioners - Steve Stevens, David Klement, and Nancy Argenziano who no longer serve on the Commission) made the right decision as evidenced by the fact that the utility is financially healthy, earning a reasonable rate of return, and able to raise capital at attractive rates. Furthermore, post-rate case earnings, as measured by earnings surveillance reports, are the subject of a docket recently opened by Commission staff. More importantly, the lights are still on, and FPL customers continue to receive the same level of excellent service that FPL is well known for providing.

In closing, I would like to commend the parties to this docket for entering into the settlement agreement which provides rate stability for approximately 4.5 million FPL ratepayers through 2012, while ensuring the financial health and integrity of the utility.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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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 comprehensive depreciation study by Florida Power & Light Company.	Docket No. 090130-EI

STIPULATION AND SETTLEMENT

WHEREAS, Florida Power & Light Company ("FPL" or the "Company"), the Office of the Attorney General ("AG"), the Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), the Florida Retail Federation ("FRF"), the South Florida Hospital and Healthcare Association ("SFHHA"), the Federal Executive Agencies ("FEA") and the Associated Industries of Florida ("AIF") have signed this Stipulation and Settlement (the "Agreement"; unless the context clearly requires otherwise, the term "Party" or "Parties" means a signatory to this Agreement); and

WHEREAS, on March 16, 2009, FPL petitioned the Florida Public Service Commission ("FPSC" or "Commission") for an increase in base rates of approximately $1.044 billion in 2010, a subsequent year adjustment to base rates of approximately $247.4 million in 2011, approval to continue the Generation Base Rate Adjustment mechanism to adjust base rates for the addition of new generating plants such as the West County Energy Center Unit 3 ("West County Unit 3") that is projected to go into service in June 2011, and other related relief; and

WHEREAS, on March 16, 2009, FPL filed comprehensive depreciation studies in accordance with FPSC Rule 25-6.0436(8)(a), Florida Administrative Code; and

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WHEREAS, the Parties filed voluminous prepared testimony and exhibits, conducted extensive discovery, participated in nine service hearings and fifteen days of technical hearings held by the Commission, and fully briefed their positions to the Commission following the conclusion of the hearings; and

WHEREAS, the Commission issued Order No. PSC-10-0153-FOF-EI on March 17, 2010 in the above dockets ("the Final Order"), in which the Commission approved a base rate increase effective March 1, 2010 of approximately $75.5 million; and

WHEREAS, on April 1, 2010, FPL and FIPUG filed motions for reconsideration of certain aspects of the Final Order; and

WHEREAS, all Parties have the right to appeal the Final Order, as revised by the Commission's decision on reconsideration, to the Supreme Court of Florida; and

WHEREAS, the Parties recognize that this is a period of substantial economic uncertainty and that this Agreement will provide rate certainty to FPL's customers during the term of the Agreement; and

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in these proceedings so as to maintain a degree of stability as to FPL's base rates and charges;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. This Agreement will become effective upon approval and final order of the Commission (the "Implementation Date") and continue through the last billing cycle in December 2012 (the period from the Implementation Date through the last billing cycle in December 2012 may be referred to herein as the "Term"). Base rates set in the Final Order shall remain unchanged during the Term except as otherwise permitted in this

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Agreement.

2. Nothing in this Agreement shall preclude FPL from requesting the Commission to approve the recovery of costs that are recoverable through base rates under the nuclear cost recovery statute, Section 366.93, Florida Statutes, and Commission Rule 25-6.0423, F.A.C. Parties may participate in nuclear cost recovery proceedings and proceedings related thereto and may oppose FPL's requests.

3. Nothing in this Agreement shall preclude FPL from petitioning the Commission to seek recovery of costs associated with any storms without the application of any form of earnings test or measure and irrespective of previous or current base rate earnings or level of theoretical depreciation reserve. Consistent with the rate design method set forth in Order No. PSC-06-0464-FOF-EI, the Parties agree that recovery of storm costs from customers will begin, on an interim basis, sixty days following the filing of a cost recovery petition and tariff with the Commission and will be based on a 12-month recovery period if the storm costs do not exceed $4.00/1,000 kWh on monthly residential customer bills. In the event the storm costs exceed that level, any additional costs in excess of $4.00/1,000 kWh shall be recovered in a subsequent year or years as determined by the Commission. All storm related costs shall be calculated and disposed of pursuant to Commission Rule 25-6.0143, F.A.C., and will be limited to costs resulting from a tropical system named by the National Hurricane Center or its successor, to the estimate of incremental costs above the level of storm reserve prior to the storm and to the replenishment of the storm reserve to the level as of the Implementation Date. The

Parties to this Agreement are not precluded from participating in any such proceedings. The Parties agree that the $4.00/1,000 kWh cap in this Paragraph 3 will apply in aggregate for a calendar year; provided, however, that FPL may petition the Commission to allow FPL to increase the initial 12 month recovery beyond $4.00/1,000 kWh in the event FPL incurs in excess of $800 million of storm recovery costs that qualify for recovery in a given calendar year, inclusive of the amount needed to replenish the storm reserve to the level that existed as of the Implementation Date. All Parties reserve their right to oppose such a petition. The Parties expressly agree that any proceeding to recover costs associated with any storm shall not be a vehicle for a "rate case" type inquiry concerning the expenses, investment, or financial results of operations of the Company and shall not apply any form of earnings test or measure or consider previous or current base rate earnings or level of theoretical depreciation reserve.

4. Nothing shall preclude the Company from requesting the Commission to approve the recovery of costs (a) that are of a type which traditionally and historically would be, have been, or are presently recovered through cost recovery clauses or surcharges, or (b) that are incremental costs not currently recovered in base rates which the Legislature or Commission determines are clause recoverable subsequent to the approval of this Agreement. It is the intent of the Parties in this Paragraph 4 that FPL not be allowed to recover through cost recovery clauses increases in the magnitude of costs of types or categories (including but not limited to, for example, investment in and maintenance of transmission assets) that have been and traditionally, historically, and ordinarily would be recovered through base rates. It is further the intent of the Parties to recognize that an

authorized governmental entity may impose requirements on FPL involving new or atypical kinds of costs (including but not limited to, for example, requirements related to cybersecurity), and, concurrently with the imposition of such requirements, the Legislature and/or Commission may authorize FPL to recover those related costs through a cost recovery clause. Nothing in this Agreement shall affect the shifts from clause to base rate recovery and from base rate to clause recovery that were approved in the Final Order.

5. (a) FPL projects that West County Unit 3 will enter commercial service during the summer of 2011, when this Agreement is in effect. The Parties agree that, beginning with the first billing cycle on or after the date on which West County Unit 3 enters commercial service, FPL shall be authorized to recover during the remainder of the calendar year that portion of the projected non-fuel revenue requirements associated with FPL's West County Unit 3 which equals the projected fuel savings associated with the operation of West County Unit 3 through the balance of the calendar year via FPL's capacity cost recovery clause. Thereafter during the Term, FPL shall be authorized to collect annually through its capacity cost recovery clause that portion of the annual revenue requirements associated with West County Unit 3 that equates to the projected annual fuel savings associated with the addition of West County Unit 3, provided that if the projected fuel cost savings are greater than the annual revenue requirements of West County Unit 3, then FPL's recovery pursuant to this section shall be limited to the annual revenue requirements of West County Unit 3.

(b) The revenue requirements associated with West County Unit 3 quantified pursuant to this paragraph shall be allocated to customer classes utilizing the same cost of service and rate design methodology that was approved in the Final Order. The projected non-fuel annual revenue requirement associated with West County Unit 3 will reflect the costs upon which the cumulative present value revenue requirements were predicated, and pursuant to which a need determination was granted by the Commission in Order No. PSC-08-0591-FOF-EI, as adjusted by the application of a 10% return on equity in lieu of the return on equity that was used in the determination of need proceeding. FPL will calculate and submit for Commission confirmation the amount of the revenue requirement at the time it submits its capacity clause projection filing for the year that the plant is to go into service. If the actual capital costs of West County Unit 3 are lower than projected in the need determination proceeding, the lower figure shall constitute the full revenue requirements. If actual capital costs for West County Unit 3 are higher than the costs projected in the need determination proceeding, FPL, at its option, may initiate a limited proceeding to recover such additional costs in future ratemaking proceedings subsequent to the termination of this Agreement. FPL's request to recover such additional costs shall be governed by the standards of Commission Rule 25-22.082(15), F.A.C. Any Party to this Agreement shall be permitted to intervene in such limited proceeding to challenge FPL's request to recover such costs. However, while FPL shall calculate the total revenue requirements for West County 3 in this manner, the amount of the revenue requirements associated with West County Unit 3 that FPL may collect through its capacity cost recovery clause from customers during the Term shall be limited by the projected fuel savings described in this paragraph.

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(c) FPL shall implement for the remainder of the calendar year in which West County Unit 3 achieves commercial service a revised fuel cost recovery factor that reflects the projected fuel savings associated with the addition of West County Unit 3 to its generating fleet. FPL shall quantify the projected fuel savings associated with the addition of West County Unit 3 through the use of the same computerized simulations of its system and current assumptions and data regarding unit performance, system load, and fuel costs that it employs to project its fuel costs in the fuel cost recovery proceeding to compare the total fuel costs that FPL would incur without the addition of West County Unit 3 to the total fuel costs it will incur with the addition of West County Unit 3. Simultaneously with the implementation of the revised fuel cost recovery factor that incorporates the fuel savings associated with the addition of West County Unit 3, FPL shall be authorized to begin collecting the portion of the revenue requirements associated with West County Unit 3 that is equivalent to the fuel savings projected for West County Unit 3 through the capacity cost recovery clause. The revised fuel cost recovery factor and the revised capacity cost recovery factor shall be calculated and their implementation timed so as to accomplish the intent of the Parties, which is that revenues collected to recover the costs of owning and operating West County Unit 3 shall be completely offset by projected fuel savings associated with the unit during the Term. FPL shall submit the revised fuel cost recovery factor and supporting calculations to the Commission and to the Parties at the time it submits the quantification of West County Unit 3's revenue requirements. Other Parties shall have the right to contest FPL's projection of fuel cost savings associated with West County Unit 3.

(d) FPL's right to recover the portion of the non-fuel revenue requirements for West County Unit 3 that is offset by projected fuel savings pursuant to this Paragraph 5 shall survive termination of this Agreement and shall continue until such time as new base rates are authorized for FPL that are based on a test year that reflects the then applicable non-fuel revenue requirements for West County Unit 3. The Parties understand and agree that this Paragraph 5 shall not be construed as authorizing FPL to defer the recognition of any costs associated with owning and operating West County Unit 3, or defer the collection of any portion of the calculated annual revenue requirements associated with West County Unit 3 that exceeds the projected fuel savings associated with the unit, to future periods. During this Agreement FPL shall book the full investment and all costs of owning and operating the unit, including depreciation expense, of West County Unit 3 during the calendar year to which such investment and costs relate. Further, when quantifying the investment in West County Unit 3 to be included in rate base during future base rate proceedings, FPL shall recognize fully the accumulated depreciation associated with West County Unit 3 that it records during the Term. It is the intent of the Parties that the provisions regarding West County Unit 3 are integral to and interrelated with the other provisions of this Agreement. Accordingly, nothing in this Paragraph 5 shall be construed to limit the ability of FPL and the other Parties to invoke their respective rights to seek changes in base rates pursuant to Paragraph 6 of this Agreement in the event the inclusion of the costs and revenues associated with West County Unit 3 in accordance with this Paragraph 5 in the calculation of FPL's earned return on equity cause FPL's earned return on equity to trigger a threshold of Paragraph 6 below.

6. Notwithstanding Paragraph 1 above, if FPL's earned return on common equity falls below 9% during the Term on an FPL monthly earnings surveillance report stated on an FPSC actual, adjusted basis, FPL may petition the FPSC to amend its base rates, either as a general rate proceeding under Sections 366.06 and 366.07, Florida Statutes, and/or as a limited proceeding under Section 366.076, Florida Statutes. (Throughout this Agreement, "FPSC actual, adjusted basis" and "actual adjusted earned return" shall mean results reflecting all adjustments to FPL's books required by the Commission by rule or order, but excluding pro forma, weather-related adjustments.) If FPL files a petition to initiate a general rate proceeding pursuant to this provision, FPL may request an interim rate increase pursuant to the provisions of Section 366.071, Florida Statutes. The other Parties to this Agreement shall be entitled to participate in any proceeding initiated by FPL to increase base rates pursuant to this paragraph, and may oppose FPL's request. Notwithstanding Paragraph 1 above, if FPL's earned return on common equity exceeds 11% during the Term on an FPL monthly earnings surveillance report stated on an FPSC actual, adjusted basis, any other Party shall be entitled to petition the Commission for a review of FPL's base rates. In any case initiated by FPL or any other Party pursuant to this paragraph, all parties will have full rights conferred by law. Notwithstanding Paragraph 1 above, this Agreement shall terminate upon the effective date of any final order issued in any such proceeding pursuant to this Paragraph 6 that changes FPL's base rates prior to December 31, 2012. This Paragraph 6 (a) shall not be construed to bar or limit FPL to any recovery of costs otherwise contemplated by this Agreement; (b) shall not apply to any request to change FPL's base rates that would become effective after this Agreement terminates; and (c) shall not limit any Party's rights in proceedings

concerning changes to base rates that would become effective subsequent to the termination of this Agreement to argue that FPL's authorized ROE range should be different than 9% to 11%.

7. In the Final Order, the Commission determined a net theoretical depreciation reserve surplus in the total amount of $894 million ("Total Depreciation Surplus"). The Commission directed FPL to amortize the Total Depreciation Surplus over four years. The Parties hereby agree that in any given year of this Agreement, FPL shall have discretion to vary the amount of amortization of Total Depreciation Surplus taken in that year, provided that (a) for any surveillance reports submitted by FPL during which its return on equity (measured on an FPSC actual, adjusted basis) would otherwise fall below 9%, FPL must amortize at least the amount of the available Total Depreciation Surplus necessary to maintain in each such 12-month period a return on equity of 9%; (b) FPL may not amortize Total Depreciation Surplus in an amount that results in FPL achieving a return on equity of greater than 11% (measured on an FPSC actual, adjusted basis) in any such 12-month period as measured by surveillance reports submitted by FPL during the Term; and (c) FPL shall amortize no more than $267 million of its Total Depreciation Surplus per calendar year during the Term (but if less than this maximum yearly amortization is taken in any calendar year during the Term, then the remaining available amortization amount will carry forward to increase the maximum yearly amortization that may be used in any subsequent calendar year throughout the Term). Notwithstanding the foregoing, in no event shall FPL amortize more than $776 million of its Total Depreciation Surplus during the period January 1, 2010, through December 31,

2012, unless a greater amount of amortization is necessary to avoid a surveillance report showing an FPSC actual adjusted return on equity of less than 9%. FPL shall not satisfy the requirement of Paragraph 6 that its actual adjusted earned return on equity must fall below 9% on a monthly surveillance report before it may initiate a petition to increase base rates during the Term unless FPL first uses any of the Total Depreciation Surplus that remains available for the purpose of increasing its earned return on equity to at least 9% for the period in question.

8. No Party to this Agreement will request, support, or seek to impose a change in the application of any provision hereof. Except as provided in Paragraph 6, a Party to this Agreement will neither seek nor support any reduction in FPL's base rates, including limited, interim or any other rate decreases, that would take effect prior to the first billing cycle for January 2013, except for any such reduction requested by FPL or as otherwise provided for in this Agreement. FPL shall not seek interim, limited, or general base rate relief during the Term except as provided for in Paragraph 6 of this Agreement. FPL is not precluded from seeking interim, limited or general base rate relief that would be effective during or after the first billing cycle in January 2013. Such interim relief may be based on time periods before January 1, 2013, consistent with Section 366.071, Florida Statutes, and calculated without regard to the provisions of this Agreement.

9. Cost of service and rate design methodologies will be as set forth in the Final Order. Nothing in this Agreement will preclude the Company from filing and the Commission from approving any new or revised tariff provisions or rate schedules requested by FPL, provided that such tariff request does not increase any existing base rate component of a

tariff or rate schedule during the Term unless the application of such new or revised tariff or rate schedule is optional to the Company's customers.

10. The provisions of this Agreement are contingent on approval of this Agreement in its entirety by the Commission. The Parties further agree that they will support this Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof. No party will assert in any proceeding before the Commission that this Agreement or any of the terms in the Agreement shall have any precedential value. Approval of this Agreement in its entirety will resolve all matters in Docket Nos. 080677-EI and 090130-EI pursuant to and in accordance with Section 120.57(4), Florida Statutes. Upon approval of this Agreement in its entirety by the Commission, FPL and FIPUG will withdraw their respective Motions for Reconsideration of the Final Order. These Dockets will be closed effective on the date the Commission Order approving this Agreement is final and no Party shall seek appellate review of any order issued in these Dockets.

11. This Agreement is dated as of August 20, 2010. It may be executed in counterpart originals, and a facsimile of an original signature shall be deemed an original.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signature.

Attachment 1

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