

**BEFORE THE FLORIDA
PUBLIC SERVICE COMMISSION**

**DOCKET NO. 120015-EI
FLORIDA POWER & LIGHT COMPANY**

**IN RE: PETITION FOR RATE INCREASE BY
FLORIDA POWER & LIGHT COMPANY**

DIRECT TESTIMONY & EXHIBITS OF:

MORAY P. DEWHURST

(PROPOSED SETTLEMENT AGREEMENT)

COM 5
AFD 4
APA 1
ECO 1
ENG 1
GCL 1
IDM 1
TEL 1
CLK 1

DOCUMENT NUMBER-DATE

06949 OCT 12 2012

FPSC-COMMISSION CLERK

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **FLORIDA POWER & LIGHT COMPANY**

3 **DIRECT TESTIMONY OF MORAY P. DEWHURST**

4 **DOCKET NO. 120015-EI**

5 **(PROPOSED SETTLEMENT AGREEMENT)**

6 **OCTOBER 12, 2012**

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

TABLE OF CONTENTS

I. INTRODUCTION..... 3

II. SUMMARY 4

III. CONTEXT FOR REVIEWING SETTLEMENT AGREEMENTS 7

IV. APPROVAL OF THE SETTLEMENT IS IN THE PUBLIC INTEREST 10

V. INVESTOR REACTIONS..... 18

VI. THE ROLE OF PUBLIC COUNSEL 21

VII. CONCLUSION 24

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. My name is Moray P. Dewhurst. My business address is Florida Power & Light
4 Company, 700 Universe Boulevard, Juno Beach, Florida 33408-0420.

5 **Q. By whom are you employed and what is your position?**

6 A. I am Vice Chairman and Chief Financial Officer at NextEra Energy, Inc. I also
7 serve as Executive Vice President of Finance and Chief Financial Officer of
8 Florida Power & Light Company (“FPL” or the “Company”).

9 **Q. Have you filed testimony previously in this proceeding?**

10 A. Yes.

11 **Q. Are you sponsoring any additional exhibits in this proceeding?**

12 A. No.

13 **Q. What is the purpose of your testimony?**

14 A. FPL, the Florida Industrial Power Users Group (“FIPUG”), the South Florida
15 Hospital and Healthcare Association (“SFHHA”) and the Federal Executive
16 Agencies (“FEA”) collectively entered into a Stipulation and Settlement that
17 would resolve the FPL Rate Case (“Proposed Settlement Agreement”). On
18 October 3, 2012, the Florida Public Service Commission (“FPSC” or the
19 “Commission”) issued an Order (No. PSC-12-0529-PCO-EI) directing the parties
20 in the case to file testimony addressing five issues specifically related to the
21 Proposed Settlement Agreement.

22

1 The purpose of my testimony is to provide an overview of the Proposed
2 Settlement Agreement and to address the fifth issue identified by the Commission,
3 which is how the Proposed Settlement Agreement is in the public interest. My
4 testimony will explain how the Proposed Settlement Agreement appropriately
5 benefits FPL's customers, its investors and the state of Florida and therefore is in
6 the public interest.

7
8 **II. SUMMARY**
9

10 **Q. Please provide an overview of the Proposed Settlement Agreement.**

11 A. The Proposed Settlement Agreement would resolve FPL's base rate case filed on
12 March 19, 2012 in a fashion that balances the interests that customers have in
13 receiving low rates, high reliability and excellent customer service with the
14 opportunity for investors to have the potential to earn a rate of return
15 commensurate with returns available from other opportunities open to them.

16
17 The Proposed Settlement Agreement provides for a substantial reduction in FPL's
18 2013 base rate request. In fact, on a proportional basis, the resulting base rate
19 increase in January 2013 is lower than that recently granted to Gulf Power and
20 lower than the increase approved in Progress Energy's settlement agreement that
21 was approved by the Commission on March 8, 2012— notwithstanding the fact
22 that FPL's starting residential base rates (and, indeed, total bills) are already

1 significantly lower than either Gulf Power's or Progress Energy's. The Proposed
2 Settlement Agreement therefore maintains FPL's affordability within the state.

3
4 The Proposed Settlement Agreement provides for a substantially lower Return on
5 Equity ("ROE") than FPL requested but one that is consistent with the level
6 recently approved in the Progress Energy settlement agreement. Although lower
7 than FPL's March 19th request, this authorized ROE, when viewed in the context
8 of all other elements of the Proposed Settlement Agreement, including the term of
9 the agreement, will offer investors the potential to earn returns reasonably
10 commensurate with other alternatives available to them. Attaining the authorized
11 ROE through the period of the Proposed Settlement Agreement, however, will
12 likely require the continued amortization of some degree of non-cash credit to
13 expense, which is provided for in paragraph 10(a). The Proposed Settlement
14 Agreement further provides for flexibility in the utilization of the allowed non-
15 cash credits, which offers the prospect of somewhat mitigating volatility in earned
16 returns.

17
18 The Proposed Settlement Agreement also provides for the continuation of the
19 current mechanism for recovery of prudently incurred storm restoration costs,
20 offering risk mitigation to investors while supporting administrative efficiency,
21 but without sacrificing any oversight of the FPSC as to the prudence of storm
22 restoration efforts.

1 Through its terms, the Proposed Settlement Agreement provides a high degree of
2 base rate certainty to all parties and FPL customers for a fixed term of four years.
3 While certainty can never be absolute, the ability of all parties to plan more
4 effectively is an important benefit of the agreement.

5
6 In order to provide this degree of certainty, the Proposed Settlement Agreement
7 necessarily includes a mechanism to handle the known and predictable
8 introduction to service of three major generating facilities – necessarily, because
9 in the absence of such a mechanism FPL would assuredly be forced to seek
10 additional base rate relief during the period of the agreement, thus destroying any
11 durability the agreement might otherwise appear to possess. This is explained in
12 more detail in the testimony of FPL witness Barrett. The mechanism chosen to
13 accommodate the entry into service of new generation facilities, known as
14 Generation Base Rate Adjustment or “GBRA” (paragraph 8), is well-proven and
15 entirely consistent with the successful mechanism that was previously used to
16 bring into service Turkey Point Unit 5 and West County Units 1 and 2 under
17 FPL’s 2005 base rate settlement agreement.

18
19 Finally, the Proposed Settlement Agreement contains an update and extension of
20 an existing framework designed to promote tactical operational decisions in
21 purchases and sales of generation, fuel and related assets (“Incentive
22 Mechanism”), that will benefit customers through optimization of certain fuel

1 assets (paragraph 12) and is described more fully in the testimony of FPL witness
2 Forrest.

3
4 **III. CONTEXT FOR REVIEWING SETTLEMENT AGREEMENTS**

5
6 **Q. Is this Proposed Settlement Agreement consistent with past practice in**
7 **Florida?**

8 A. Yes, as discussed by FPL witness Deason, public policy favors settlement and the
9 FPSC has a long history of encouraging and approving settlements.

10
11 Settlement agreements typically represent negotiated solutions to numerous,
12 interrelated and complex issues. A settlement agreement often contains final
13 terms that differ from litigated or recommended positions, because the resolutions
14 represent compromises between opposing perspectives. Sometimes, settlement
15 solutions reflect a modification or enhancement to a prior approach or FPSC
16 precedent. All of these points are reflected in the Proposed Settlement
17 Agreement. It represents a series of interrelated compromises that independent
18 parties with differing interests jointly arrived at. The resulting compromises
19 differ from the positions the parties adopted in the underlying litigated base rate
20 case. And in helping to flesh out an agreement that meets the overall objectives
21 of the settling parties, some of the substantive terms either draw directly from past
22 instances that have been approved by the FPSC in the context of other agreements
23 or represent modifications to existing practices.

1 **Q. Are any of the major terms of the Proposed Settlement Agreement**
2 **significant departures from past practice?**

3 A. No. Although one of the advantages of settlement agreements is that they allow
4 the parties to introduce new and innovative approaches to addressing recurring
5 common issues, in this particular case none of the major terms is substantively
6 new. The GBRA mechanism is well-established and has in fact already been used
7 in FPL's 2005 base rate settlement agreement to govern the introduction to
8 service and base rate recovery of new generation assets. An ability to flexibly
9 amortize certain non-cash expense credits or debits over the period of an
10 agreement has also been used on multiple occasions, including in FPL's 1999,
11 2002, and 2010 base rate settlement agreements. The amortization of certain
12 amounts from the fossil dismantlement reserve is a minor variation on this
13 approach, analogous to the approach used in Progress Energy's 2010 and 2012
14 base rate settlement agreements with regard to cost of removal. (*See* Order Nos.
15 PSC-10-0398-S-EI and PSC-12-0104-FOF-EI). As explained in greater detail by
16 FPL witness Barrett, this flexibility is motivated in part by the economic life
17 extension of the three major generation sites that FPL is currently modernizing,
18 effectively deferring much further into the future the need to utilize a portion of
19 the dismantlement reserve.

20
21 The deferral of depreciation studies for the period of an agreement is also not new
22 or unique to FPL. The Commission recently approved a similar deferral as part of
23 Progress Energy's 2012 base rate settlement agreement in Order No. PSC-12-

1 01040-FOF-EI. The terms governing the recovery of prudently incurred storm
2 costs are taken directly from FPL's 2010 settlement agreement, currently in force,
3 and are similar to those used in Progress Energy's 2010 and 2012 settlement
4 agreement. The Incentive Mechanism (paragraph 12) represents a variation on an
5 existing program. As explained in more detail by FPL witness Forrest, this term
6 will encourage FPL to seek greater value for customers, and customers are
7 assured of getting 100 percent of the first \$46 million of whatever gains FPL may
8 create using this additional flexibility.

9
10 The other terms all represent either direct compromises or minor variations on
11 positions that were already examined at length in the underlying case – in
12 particular, ROE, the level of the January 2013 base rate increase, Commercial and
13 Industrial Load Control ("CILC") credits, and late payment fees. As with all
14 agreements, the particular mix and balance of terms is unique, but there is nothing
15 unusual or radical about the specific provisions.

16
17 **Q. Should the Commission approve certain provisions of the Proposed**
18 **Settlement Agreement, and deny others?**

19 A. No. The Proposed Settlement Agreement represents an extensively negotiated
20 settlement that balances the interests of FPL's customers and its investors and
21 should be considered in its entirety. Approval of certain provisions, to the
22 exclusion of others, will upend the equilibrium achieved by linking the individual
23 components. It is for this reason that paragraph 15 of the Proposed Settlement

1 Agreement contains the typical provision conditioning the effectiveness of the
2 agreement on approval of the agreement in its entirety. The Proposed Settlement
3 Agreement comes together in a package that, taken as a whole, is in the public
4 interest. Therefore, it should be considered in its entirety.

5
6 **IV. APPROVAL OF THE SETTLEMENT IS IN THE PUBLIC INTEREST**

7
8 **Q. Is the Proposed Settlement Agreement in the public interest?**

9 **A.** Yes. As FPL witness Deason describes, the Commission has wide discretion in
10 determining whether an agreement such as this is in the public interest.
11 Moreover, regardless of whatever frame of reference the Commission might use
12 in reaching a conclusion in this regard, I believe it would surely seem that a
13 settlement of a base rate case that simultaneously (a) offers customers the
14 prospect of enjoying relatively low rates, good reliability and excellent customer
15 service, not just in the short term but over the period of the agreement, and
16 (b) also offers investors the prospect of being able to earn a return commensurate
17 with their other opportunities, is evidently in the public interest. The Proposed
18 Settlement Agreement achieves both these points, but it also does more.
19 Specifically, the Proposed Settlement Agreement:

- 20 • Offers FPL's customers a high degree of confidence that their bills will
21 continue to be among the lowest if not the lowest in the state;
- 22 • Helps to ensure that FPL will be able to maintain its strong financial position
23 and will have access to the financial resources to sustain continued investment

1 – investment that in turn will enable FPL to continue its excellent track record
2 of superior reliability and strong customer service;

- 3 • Offers reduced uncertainty to all parties, including customers and investors;
- 4 • Promotes administrative efficiency, obviating what would otherwise be the
5 need for multiple, expensive rate cases;
- 6 • Supports continued investment in the state, thus promoting economic growth;
- 7 • Offers investors the prospect of a reasonable return and a reasonable degree of
8 risk around the potential range and variability of that return in a period likely
9 to see interest rates increase.

10 **Q. How does the Proposed Settlement Agreement offer customers a high degree**
11 **of confidence that their bills will continue to be among the lowest, if not the**
12 **lowest, in the state?**

13 A. As FPL witness Deaton indicates, under the Proposed Settlement Agreement the
14 bills in 2013 for residential customers will remain the lowest in the state and the
15 bills for commercial and industrial customers will be more competitive with rates
16 of other utilities in Florida and the southeast United States. The Proposed
17 Settlement Agreement provides for a roughly 25% reduction in FPL's January
18 2013 base rate increase request, from \$517 million to \$378 million.

19
20 The Proposed Settlement Agreement also provides for base rate increases for the
21 three project modernizations. However, the cost of those projects would be no
22

1 more than (and possibly less than) the cost reviewed in the need proceedings
2 when those projects were approved; and those approvals were based on a
3 demonstration that, relative to competing resource options, the projects would
4 *improve* customer bill affordability over their lifetimes for a wide range of fuel
5 price assumptions. Accordingly, customers can be assured that the inclusion of
6 these projects within the scope of the Proposed Settlement Agreement, at costs no
7 higher than contemplated in their respective need approvals, will be positive for
8 long term bill affordability.

9
10 Finally, the Proposed Settlement Agreement settles all the major base rate issues
11 and provides only limited opportunities to adjust base rates; base rates comprise
12 roughly half of the typical residential bill, offering customers a high degree of
13 confidence that their bills will remain among the lowest in the state throughout
14 the term of the agreement. Therefore, customers can have a high degree of
15 certainty and predictability around future base rates.

16 **Q. How can the Commission satisfy itself that the January 2013 base rate**
17 **increase is reasonable in the present circumstances?**

18 A. First, as noted above, the \$378 million contained in the Proposed Settlement
19 Agreement is a roughly 25% reduction from FPL's original request. Testimony
20 of FPL witness DeRamus demonstrated that the impact of the original request on
21 customer bills and affordability was moderate. Clearly, the 25% reduction
22 improves affordability.

23

1 Second, the \$378 million, expressed as a percentage increase in base rates, or
2 8.6%, can be compared with the increases granted to Gulf Power on April 3, 2012
3 of 13.3%, and the increase approved for Progress Energy on March 8, 2012 via its
4 settlement agreement, of 9.7%. Yet both Gulf Power's and Progress Energy's
5 base rates (and total bills) were *higher* than FPL's before their respective
6 increases. A smaller percentage increase on lower base rates clearly should not be
7 deemed unreasonable.

8
9 Third, as demonstrated through the testimony of FPL witness Barrett in the
10 underlying case, from 2012 to 2013 FPL will lose the benefit of accruing \$367
11 million of non-cash surplus depreciation amortization. It is no coincidence that
12 this amount is very close to the \$378 million increase agreed to in the Proposed
13 Settlement Agreement. Absent a rate increase of approximately this magnitude
14 there is simply no way to avoid FPL's earnings falling dramatically, to levels well
15 below reasonable or competitive ROEs.

16
17 These three observations provide strong support for a conclusion that the January
18 2013 base rate increase is reasonable given the facts and circumstances of FPL's
19 current position.

20 **Q. How does the Proposed Settlement Agreement help ensure that FPL will be**
21 **able to sustain continued investment?**

22 A. The Proposed Settlement Agreement preserves FPL's financial integrity and
23 supports FPL's existing strong financial position, which provides the

1 underpinning for its ability to sustain high levels of investment. As discussed
2 later in my testimony, taken in aggregate the Proposed Settlement Agreement is
3 likely to be broadly viewed by investors as balanced and constructive;
4 consequently, capital is likely to be available to FPL on competitive terms.

5 FPL's continued access to capital is critical because FPL is currently investing for
6 the long term benefit of its customers in amounts substantially in excess of
7 internally generated cash flow. FPL must sustain its investment to complete the
8 three major modernization projects. FPL must also sustain investment in its core
9 infrastructure, including continuation of its multi-year storm hardening initiative
10 and ongoing investment designed to enhance the reliability of its transmission and
11 distribution network as well as its generation fleet.

12 FPL today offers its customers service reliability among the best in the state and
13 nation. Superior reliability is only made possible with the help of sustained
14 investment. The Proposed Settlement Agreement therefore ensures a stable
15 framework that will support FPL's capital raising activities and thereby enable it
16 to sustain its substantial investment program.

17 **Q. How is the reduced uncertainty provided by the Proposed Settlement**
18 **Agreement a benefit to all parties?**

19 A. The reduced uncertainty with a four-year rate agreement benefits both customers
20 and investors. For customers, the Proposed Settlement Agreement establishes a
21 four-year period with reduced uncertainty; during the four year term, FPL would
22 not be permitted to seek another base rate increase except as expressly provided in
23 the Proposed Settlement Agreement. While this does not mean absolute certainty,

1 it nevertheless provides all customer classes a much better view of what they can
2 expect their rates and bills to be. Practical experience confirms that customers
3 value predictability and reductions in rate volatility. For investors, the four-year
4 term of the Proposed Settlement Agreement offers the prospect of a greater degree
5 of predictability around the level and variability of FPL's earned ROE, together
6 with reduced regulatory uncertainty. This is particularly valuable for investors
7 with a long-term outlook, who are the investors FPL most seeks to attract.

8
9 **Q. How does the Proposed Settlement Agreement promote administrative**
10 **efficiency?**

11 A. First, setting base rates for four years and incorporating three modernizations
12 avoids the need for multiple rate cases. As FPL witness Barrett discusses in his
13 testimony, each of these projects alone would, in the absence of rate relief, result
14 in reductions in earned ROE of more than 100 basis points, thus in all likelihood
15 necessitating additional, costly, and time-consuming base rate proceedings.
16 Second, as FPL witness Barrett also discusses in his testimony, the Proposed
17 Settlement Agreement includes the adoption of the GBRA mechanism previously
18 used in FPL's 2005 settlement agreement. This mechanism promotes
19 administrative efficiency by avoiding the need to revisit issues that have already
20 been addressed in a need petition. Additionally, the mechanism for recovery of
21 prudently incurred storm costs supports administrative efficiency but does not
22 sacrifice any oversight of the FPSC as to the prudence of storm restoration efforts.

1 **Q. How does the Proposed Settlement Agreement support continued investment**
2 **in Florida's economy?**

3 **A.** The Proposed Settlement Agreement supports continued investment in the state
4 both directly and indirectly. Directly, as discussed above, it will support FPL's
5 own capital investment program. As I noted in earlier testimony, FPL is in the
6 midst of the largest capital investment program in its history. This roughly \$9
7 billion of capital investment itself directly translates into positive impact on the
8 Florida economy and the creation of new employment. Moreover, FPL expects to
9 continue to invest additional capital through the four-year term of the Agreement.
10 FPL was the largest private investor in the state in 2010 and will likely remain
11 among the largest throughout the period of the Agreement. No other private
12 investor in Florida that I am aware of has an overall investment program of the
13 same magnitude.

14
15 The Proposed Settlement Agreement also supports continued investment
16 indirectly through its impact on rates and reliability. Efficient, reliable electric
17 service is an important underpinning of a modern economy, and FPL's
18 commercial and industrial customers depend in part for their own competitiveness
19 on the efficiency and reliability of FPL's service. When viewed in the context of
20 the southeastern United States - the economic region within which many of FPL's
21 commercial and industrial customers compete - FPL's residential rates are already
22 extremely competitive and are highly likely to remain so under the Proposed
23 Settlement Agreement. The rates proposed for commercial and industrial

1 customers under the Proposed Settlement Agreement, including the impact of
2 CILC and Commercial/Industrial Demand Reduction (“CDR”) rider credits, will
3 improve the relative competitiveness of FPL’s commercial and industrial
4 customers. All other things equal, this will help them to grow their businesses in
5 a way that benefits Florida relative to other southeastern states. In turn, this will
6 support investment and employment within Florida, benefiting all Floridians.

7
8 **Q. How does the Proposed Settlement Agreement balance customer and**
9 **investor interests?**

10 A. As discussed above, the Proposed Settlement Agreement serves customers
11 interests through its support, both direct (as expressed through its impact on base
12 rates and hence bills) and indirect (through the support for sustained investment
13 levels), of the benefits FPL’s customers currently enjoy: the lowest typical
14 residential bills in the state; the best service reliability among the Investor Owned
15 Utilities (“IOU”), and excellent, award winning customer service. Relative to
16 FPL’s original request it improves affordability for every major customer class.
17 At the same time, it offers investors the prospect of earned ROEs in the range of
18 9.7% - 11.7%, which although lower than originally requested in FPL’s March
19 2012 filing and supported in part by the amortization of non-cash credits to
20 expense, will nevertheless make FPL more competitive with other utilities in the
21 broader southeast region with which it is commonly compared to by investors.

1 **Q. Does the Proposed Settlement Agreement change the risk profile of FPL as**
2 **viewed by investors?**

3 A. Yes. The effect of locking-in the base rate framework for the next four years is to
4 accentuate investors' exposure to potential increases in inflation and interest rates,
5 both of which are widely anticipated at some point within the term of the
6 Proposed Settlement Agreement. It is commonly accepted among professional
7 investors that today's interest rate environment is distorted by Federal Reserve
8 Bank actions designed to stimulate the economy, and this makes it difficult to rely
9 on today's yield curve for investment horizons exceeding a few months to a year.
10 However, the Proposed Settlement Agreement also provides investors with clarity
11 around the likely determinants of future base rates and will reduce perceptions of
12 regulatory risk to some degree. Overall, the agreement provides a reasonable
13 balance that FPL believes will be adequate from the standpoint of meeting its
14 obligations to investors.

15
16 **V. INVESTOR REACTIONS**

17
18 **Q. Have you had occasion to discuss the Proposed Settlement Agreement with**
19 **investors?**

20 A. Yes. Since the public announcement of the Proposed Settlement Agreement we
21 have attended three major investor conferences and have had numerous in-person
22 and telephonic conversations with major institutional investors. I have personally
23 met directly with representatives of approximately 50 large institutional investors.

1 **Q. How do FPL investors view the Proposed Settlement Agreement?**

2 A. Investors' views naturally vary. However, the majority of views expressed have
3 been consistent with the following quote from one of the most respected
4 investment analysts covering the U.S. utility sector:

5 "On balance, we believe the settlement is fair to both ratepayers and
6 shareholders, in that it allows for rate base growth at ROEs that may
7 look very reasonable over the 4-year plan." (Barclays, August, 16,
8 2012 NEE: Settlement Reached in Florida).

9 In addition, many investors have noted the consistency of the Proposed Settlement
10 Agreement's authorized ROE range with that contained in the Progress Energy
11 settlement agreement that was approved by the Commission on March 8, 2012.

12 **Q. How does the investment community view the ROE settlement level?**

13 A. In general, and combined with the greater predictability of earnings discussed
14 earlier and considering the four-year term of the agreement, the investment
15 community views the 10.7% ROE as reasonable under the circumstances and
16 commensurate with the risk level of FPL.

17 "We would again point to the fact that recent rate cases in the state
18 have allowed 10.25-10.5% ROEs, for smaller utilities with less risky
19 asset bases and locations, and therefore continue to expect a similar
20 outcome for FP&L." (Barclay's September 28, 2012, NEE: More
21 Testimony Required to Support FP&L Settlement)

1 **Q. Have investors noted the changes in the risk profile of FPL that you**
2 **described earlier?**

3 A. Yes. In my discussions with investors they have noted the greater degree of
4 certainty around critical items, such as rate recovery via the GBRA mechanism
5 for large generation projects previously approved by the FPSC, but they have also
6 expressed concern over the exposure that FPL would have to increases in inflation
7 and interest rates during the term of the agreement, both of which are widely
8 anticipated among professional investors.

9
10 However, a key and important feature to both FPL customers and investors is the
11 clarity provided by the four-year duration of the Proposed Settlement Agreement.

12 Without the Proposed Settlement Agreement, rate proceedings for the three
13 modernization projects are likely because each one would reduce FPL's earned
14 ROE by more than 100 basis points absent any rate relief. This would place
15 FPL's investors at a disadvantage.

16 **Q. Do investors continue to have concerns about the regulatory environment in**
17 **Florida?**

18 A. Yes. While there has been a generally positive response to the Proposed
19 Settlement Agreement, investors continue to express some concern over the
20 regulatory environment in Florida and are watching the outcome of FPL's rate
21 case very closely. The investment community is still seeking further affirmation
22 of what it currently views as a return to a constructive regulatory environment in
23 Florida.

1 “A constructive resolution of this case will likely be viewed
2 favourably by investors. Given how adverse the ruling was in FPL’s
3 last rate case, we believe that some investors remain nervous and as
4 a result, the shares continue to trade at a discount.” (Atlantic
5 Equities, October 2, 2012, NextEra Energy Inc, Rate case catalyst,
6 reiterate overweight).

7
8 **VI. THE ROLE OF PUBLIC COUNSEL**
9

10 **Q. Should the Commission conclude that the Proposed Settlement Agreement is**
11 **not in the public interest because the Office of Public Counsel opposes it?**

12 A. No. While FPL respects Office of Public Counsel (“OPC’s”) role in the rate case
13 process, nothing in reason suggests that OPC’s position should automatically
14 determine whether or not a proposed settlement is in the public interest. As FPL
15 witness Deason notes, in evaluating settlement agreements the FPSC is the arbiter
16 of the public interest and must make its decision based on all the facts and
17 circumstances. The Commission’s role is to balance the interests of customers
18 with the obligations owed to FPL’s investors. Certainly FPL agrees that OPC is
19 an important voice in the process; however, its opposition to the Proposed
20 Settlement Agreement cannot be viewed as dispositive of the matter, any more
21 than its position on any given issue in any proceeding must be accepted as
22 equivalent to the public interest. Rather, the substance of OPC’s objections to the

1 agreement must be considered in light of all the evidence submitted during the
2 base rate case proceedings.

3
4 This is particularly necessary in this instance where OPC has taken positions on
5 core issues of the underlying case – most notably with respect to allowed ROE
6 and capital structure – that clearly do not align with the public interest. OPC’s
7 litigation position did not seriously challenge FPL’s performance. Rather, OPC
8 challenged the very platform that allows FPL to deliver excellent performance
9 and value to its customers: its financial strength and integrity. Without repeating
10 all of the evidence adduced during the technical hearing, OPC’s recommendations
11 would strip the Company’s financial strength, disallow significant components of
12 the compensation of employees who deliver exceptional service, and set rates
13 based on the lowest allowed ROE for any utility in the country – even lower than
14 the current lowest value of 9.2%, awarded to a wires-only utility that was
15 explicitly penalized for poor performance to its customers. Such short-sighted
16 positions do not serve the public interest.

17
18 Further, if settlements are to remain an important element of the regulatory
19 process and if the Commission wishes to continue encouraging parties to reach
20 constructive resolutions, then no one intervenor can be given a veto power.
21 Granting any intervenor superior footing, even OPC, would adversely change the
22 regulatory environment by effectively discouraging utilities from reaching
23 agreements with other intervenors who are willing to negotiate and allowing one

1 intervenor to determine when, how, or whether any matter would be negotiated
2 for settlement. An effectual veto power of that nature would be contrary to the
3 public interest.

4 **Q. Given that FPL's co-signatories represent commercial and industrial**
5 **customers and given OPC's opposition, how can the FPSC be assured that**
6 **residential customers' interests are addressed in the Proposed Settlement**
7 **Agreement?**

8 A. Notwithstanding OPC's opposition and its claim to represent all customers'
9 interests, the FPSC can and should look to independent, objective evidence to
10 consider whether or not the Proposed Settlement Agreement fairly balances the
11 interests of *all* customer classes, including residential.

12 **Q. Please describe the independent evidence that the FPSC can look to.**

13 A. Substantial, undisputed evidence was provided during the underlying case to
14 show that FPL today delivers superior value to its residential customers, in the
15 form of low typical bills (indeed, the lowest in the state), strong reliability, and
16 excellent customer service. Nothing in the Proposed Settlement Agreement
17 changes these, and in fact the Proposed Settlement Agreement provides the means
18 to ensure the likely continuation of this performance. FPL's typical residential
19 bills will remain the lowest in the state, while the balanced treatment of ROE
20 means that FPL will have continued access to the capital necessary to invest to
21 sustain superior reliability and customer service. Moreover, FPL witness
22 DeRamus demonstrated that the impact on customer bills of granting FPL's full
23 base rate request was moderate, and the Proposed Settlement Agreement contains

1 a substantial *reduction* in the January 2013 request relative to the March 2012
2 filed case. Accordingly, it is clear that FPL's residential affordability, which is
3 the best in the state today, will continue to be excellent and will not be materially
4 reduced. In fact, it is difficult to understand how an agreement which helps
5 ensure that the lowest typical residential bills in the state remain among the most
6 affordable in the state for the period of the agreement and which helps ensure that
7 the serving utility will have the resources to maintain and hopefully improve its
8 reliability and customer service over the same period could not be considered to
9 be in residential customers' interests.

11 VII. CONCLUSION

12
13 **Q. Should the Commission approve the Proposed Settlement Agreement as**
14 **consistent with the public interest?**

15 A. Yes. For all the reasons and benefits noted throughout my testimony and noted in
16 the testimony of the other FPL witnesses, the Proposed Settlement Agreement is
17 clearly in the public interest and should be approved by this Commission.

18 **Q. Does this conclude your testimony?**

19 A. Yes.