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

REBUTTAL TESTIMONY OF:

TERRY DEASON

(PROPOSED SETTLEMENT AGREEMENT)

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NOVEMBER 8, 2012

Q. Please state your name and business address.

A. My name is Terry Deason. My business address is 301 S. Bronough Street, Suite 200, Tallahassee, Florida 32301.

Q. Did you previously submit direct testimony regarding the proposed Stipulation and Settlement that was filed on August 15, 2012 in this proceeding (the "Proposed Settlement Agreement")?

A. Yes.

Q. Are you sponsoring any rebuttal exhibits related to the Proposed Settlement Agreement?

A. No.

Q. What is the purpose of your rebuttal testimony?

A. The purpose of my rebuttal testimony is to respond to certain assertions and positions taken by the Office of Public Counsel ("OPC") witnesses Pous and Ramas concerning the Proposed Settlement Agreement.

Q. What does witness Pous conclude with regard to the Proposed Settlement Agreement?

A. He concludes that the provision allowing discretionary amortization of up to $209 million of fossil dismantlement reserves and the postponement of the regularly scheduled depreciation and dismantlement studies will not result in fair, just, and reasonable rates.

Q. Do you agree with his conclusion?

A. No, I do not agree, for two fundamental reasons.

Q. Please explain.

A. First, and perhaps most importantly, witness Pous' criticisms of the discretionary amortization are unfounded. Second, witness Pous loses sight that the provision with which he disagrees is only a part of the overall Settlement. As I stated in my direct testimony, the Proposed Settlement Agreement should be evaluated as a whole to determine if it is in the public interest. Rarely, if ever, has a single provision been so significant that it has resulted in a settlement agreement being deemed inconsistent with the public interest. The provision allowing the discretionary amortization should be viewed in the context of the entire Proposed Settlement Agreement and what benefits it brings to all stakeholders.

Q. What are witness Pous' criticisms to which you refer?

A. Witness Pous essentially raises three criticisms of the discretionary amortization provision. First, he criticizes it for not being accompanied by a dismantlement study. Second, he criticizes it for violating the matching principle. And third, he alleges that it will enrich FPL at the expense of treating customers unfairly.

Q. Is witness Pous' concern that there is not an accompanying dismantlement study valid?

A. No, it is not, for at least three reasons. First, there was no requirement for a dismantlement study to have been filed as part of the rate case that the Proposed Settlement Agreement settles. It would be unreasonable and contrary to the Commission's policy of promoting settlements to now interject a new unanticipated requirement before a settlement can be accepted. Second, the Commission has on several occasions given a utility discretion within a settlement agreement to vary the level of depreciation and has never required a depreciation (or dismantlement) study be filed as a

prerequisite. And third, witness Pous is incorrect in his assertion that a depreciation (or dismantlement) study must be filed and considered every time customer rates are changed. To the contrary, the Commission routinely uses its discretion both in setting depreciation rates and how it will use a depreciation (or dismantlement) study as a tool to set those rates. Resetting depreciation rates is done on a schedule that can be altered, and the Commission can and routinely establishes just and reasonable customer rates without the use of a depreciation (or dismantlement) study.

Q. In your previous response, you stated that the Commission has allowed depreciation discretion as part of negotiated settlements. Can you give an example?

A. Yes, a good example is the settlement the Commission approved in 2002 for FPL in Docket No. 001148-EI. In this settlement, FPL was allowed the discretion to amortize up to $125 million annually as a credit to depreciation expense and a debit to the depreciation reserve for the term of the settlement which was nearly four years. The settlement did not require a depreciation study and the OPC supported that settlement. Rather it recognized that the discretionary depreciation amortizations would be used to address reserve imbalances in the next depreciation study. The settlement further recognized that the inherent depreciation rates would remain unchanged during the settlement period and any impacts on the accumulated depreciation reserve would be included in establishing the remaining life depreciation rates on a going forward basis after the settlement period ended.

Q. Is this essentially the same as the discretionary dismantlement amortization in the Proposed Settlement Agreement?

A. Yes, except the 2002 settlement was for depreciation only and was at a much higher dollar amount. The fundamental basis for the discretionary amortization in 2002 is the same as that in the Proposed Settlement Agreement.

Q. Please address witness Pous' concern that the dismantlement amortization violates the matching principle.

A. Witness Pous defines matching as a situation where each generation of customers pays its fair share of the cost of an asset over the life of the asset. It is a proper goal of regulation to match costs and benefits. However, witness Pous is incorrect that the proposed dismantlement amortization would violate this goal.

Q. Why is there no violation of the matching principle?

A. In the case of setting depreciation or dismantlement rates there is much uncertainty. While the original cost of an asset can be readily ascertained when it is placed into service, there is much uncertainty as to its life. This is further complicated by asset additions, potential life extensions or even life curtailments due to economic or physical obsolescence. This is a fundamental reason the Commission uses the remaining life method of depreciation, which self-corrects any reserve imbalances as information on actual costs become better known with the passage of time. In the case of dismantlement, there is even greater uncertainty as to the dollar cost of the ultimate dismantlement, potential salvage values, and the exact timing of the dismantlement. So there is no one correct amount of "cost" at any given time against which to match rates. To claim that the discretion to amortize up to $209 million of the dismantlement reserve results in unfair, unjust, and unreasonable rates attributes a degree of certainty and precision that simply does not exist.

Q. Are there additional reasons why the discretion to amortize $209 million of the dismantlement reserve does not result in unfair, unjust, or unreasonable rates?

A. Yes, there are at least two additional reasons. First, as discussed by FPL witness Barrett, there is evidence in the record indicating that the fossil dismantlement reserve is or likely soon will be in an over-accrued position based on changes in the composite lives of FPL's fossil plants. This is acknowledged by witness Pous in his testimony, where he identifies factors that could result in a depreciation surplus and concludes: "I believe that similar factors indicate that a surplus in the fossil dismantlement reserve may be determined at the same time." Therefore, if these anticipated factors do indeed result in a surplus in the fossil dismantlement reserve, the amortization discretion granted in the Proposed Settlement Agreement would merely address this imbalance sooner rather than later. This discretion certainly would not cause customer rates to be unfair, unjust, or unreasonable.

Second, the amount of discretionary amortization is simply not that significant in magnitude to reasonably conclude that customer rates would be unfair, unjust, or unreasonable. The normal amount of fossil dismantlement accruals will continue during the settlement period. Even if the entire amount of discretionary amortization is taken, the reserve at the end of the settlement would be reduced by only the net amount of $135.8 million due to this provision, to then be recaptured over the remaining life of the fossil plants to be eventually dismantled. Conservatively assuming no change in lives, this would be 15 years, or less than $10 million per year. Of course, if the lives are extended, the per-year impact would be even less. Given the size of FPL and the inherent

uncertainty of estimating the ultimate amount and timing of future dismantlement costs, $10 million per year is simply not enough to significantly affect the fairness, justness or reasonableness of customer rates. It should be noted that Mr. Barrett has calculated the average annual impact to be only $7.2 million per year for the years 2017-2020.

Q. Witness Pous' third criticism is that the discretionary amortization would unjustly enrich FPL. Would you please comment on this criticism?

A. Like his other criticisms, this criticism too is unfounded. The purpose of the discretionary amortization is not to enrich FPL, but rather to allow FPL a reasonable opportunity to earn within its authorized range over the four-year term of the Proposed Settlement Agreement. The discretionary amortization is merely a regulatory tool used in the context of a settlement to enable three very beneficial outcomes for customers. In addition, the Commission maintains its authority to monitor earnings through its earnings surveillance program.

Q. What are the beneficial outcomes to which you refer?

A. First is the reduction in the amount of the requested revenue increases from $517 million to $378 million. Second is the assurance that rates will be stable and predictable over the four years of the Proposed Settlement Agreement. And third is the opportunity for FPL to remain financially viable to continue its capital investments in Florida for the benefit of its customers. Without the discretionary amortization provision, these beneficial outcomes of the Proposed Settlement Agreement could not be achieved.

Q. What does witness Ramas conclude with regard to the Proposed Settlement Agreement and the Generation Base Rate Adjustment ("GBRA") provision within the Proposed Settlement Agreement?

A. Witness Ramas states that the Proposed Settlement Agreement is not based on the costs to serve FPL's customers during the 2013 test year and that the resulting rates are not fair, just and reasonable. With regard to the GBRA, witness Ramas concludes that the GBRA step rate increases are "inconsistent with sound regulatory principles established by this Commission and ignore other cost offsets."

Q. Do you agree with witness Ramas that the rates contemplated under the Proposed Settlement Agreement are not cost-based?

A. No, I do not. The record evidence before the Commission is more than adequate for the Commission to judge whether the rates contemplated by the Proposed Settlement Agreement are based upon FPL's costs and meet the other statutory criteria cited by witness Ramas. A careful reading of witness Ramas' testimony reveals that her complaint about the Proposed Settlement Agreement is simply that it is inconsistent with the way that she and other OPC witnesses wish to define FPL's costs. This is evident from her statement that "the proposal unreasonably assumes the Commission would reject 100% of the significant adjustments to test year rate base and expenses supported by OPC witnesses and others." The record evidence before the Commission is also abundantly clear that OPC took a litany of aggressive positions on many different revenue requirement issues. Because the revenue requirement contemplated in the Proposed Settlement Agreement exceeds that advocated by OPC does not mean that the resulting rates are not cost-based. To the contrary, there is ample evidence to conclude that the rates are cost-based.

Q. Is it necessary for the Commission to evaluate the cost basis for the resulting rates before it can approve the Proposed Settlement Agreement?

A. While there is ample evidence to make that determination, it is not necessary and has not been a prerequisite in approving other settlement agreements. A settlement is the consummation of negotiation and the approval of a settlement should be based upon the agreement as a whole and whether it is in the public interest. A vote on individual issues as is done in a rate case is not required and would be counterproductive to encouraging settlements and parties actually reaching a settlement. In addition, as shown in the statutory citations provided by witness Ramas, there are other considerations beyond the cost of providing the services that the Commission can consider:

- The efficiency, sufficiency, and adequacy of the facilities provided
- The value of such service to the public
- The ability of the utility to improve such service and facilities
- Whether the utility would be denied a reasonable rate of return.

It is very evident that the Proposed Settlement Agreement as a whole and the GBRA provision in particular, contain provisions designed to address all of these considerations. The Commission should weigh all of these considerations to reach a reasonable end result consistent with the public interest.

Q. You stated that it is not necessary for the Commission to make a finding that settlement rates are cost based. Can you give examples?

A. Yes, the most recent example is the Progress Energy Florida base rate settlement approved by the Commission in Order No. PSC-12-0104-FOF-EI. That settlement was consummated and approved without a test year letter, rate case petition, testimony, or MFR's to demonstrate a cost-based revenue requirement. There was no formal hearing on the evidence, no discovery, and no public quality of service hearings. The

Commission stated in the order, "Based upon the petition, our review of the Agreement, and the evidence and oral argument taken at the hearing, we find approval of the Agreement to be in the public interest." In view of the limited supporting documentation for the rates approved in that settlement, the Commission clearly had to have reached its conclusion that the settlement was in the public interest without conducting any sort of formal cost-of-service evaluation. In addition, in FPL's base rate proceedings in Docket Nos. 001148-EI and 050045-EI, there was no formal hearing on the evidence in either of these cases as a settlement agreement was filed prior to the start of technical hearings.

Q. You stated that witness Ramas also takes the position that the GBRA provision in the Proposed Settlement Agreement is inconsistent with sound regulatory principles established by this Commission. Do you agree?

A. No. I believe the GBRA mechanism is a proven and valuable regulatory tool totally consistent with sound regulatory principles. It provides a reasonable means to facilitate cost recovery of prudent and cost-efficient generating assets and enables a timely matching of costs and benefits without the need for a rate case. As I mentioned earlier, it offers a means for the Commission to recognize "the efficiency, sufficiency, and adequacy of the facilities," the "value of such service," and "the ability of the utility to improve such service and facilities," while affording a utility an opportunity to earn its rate of return without the need for a rate case. This constitutes good regulatory policy.

Q. Why then does witness Ramas state that the GBRA mechanism is inconsistent with sound regulatory principles?

A. A careful reading of witness Ramas' testimony reveals her fundamental belief that the only way to allow for cost recovery is through a comprehensive rate case. In criticizing

the GBRA's true-up provisions she states: "These potential true-up provisions do not justify the GBRA increases, because these would still not consider a full revenue requirement of all components of the revenue requirement calculations and consideration of overall base rates at the time of implementation." Thus her fundamental philosophical approach is to force a utility (and the Commission) to endure rate case after rate case simply so the utility can have a reasonable opportunity to earn a return on capital deployed to prudently and cost-effectively serve its customers. While rate cases are certainly needed from time to time, the GBRA represents a more efficient means to provide needed cost recovery of assets which have already been determined to be needed and to be the most cost-effective alternative. So the fundamental question for the Commission is whether to rely on potentially up to three rate cases over the next four years or to utilize an approach that has been successfully utilized in a previous settlement to allow reasonable cost recovery without the rate cases.

It should also be noted that FPL witness Barrett, in his rebuttal testimony, states that absent rate adjustments, FPL will experience declines in its earned ROE of 148 and 136 basis points, respectively, when the Riviera and Port Everglades Modernization Projects go into service. Without the use of the GBRA mechanism to recover the costs of these modernization projects, such substantial deterioration in earnings likely would force FPL to petition the Commission for multiple base rate increases to recover the costs associated with these projects. The four-year term of the Proposed Settlement Agreement, which is facilitated in large part by the GBRA mechanism, avoids these costly rate cases. Witness

Barrett further testifies that the implementation of the GBRA works to move earnings toward the ROE midpoint.

Q. Witness Ramas further criticizes the GBRA mechanism because it uses costs obtained from each generating unit's need determination proceeding. Do you agree with this criticism?

A. No, I do not. Witness Ramas states: "It is my understanding that the proceedings which results in a need determination are conducted in a more condensed time frame as compared to a full revenue requirement proceeding, and do not entail as robust of a review of the projected plant costs and operating costs as would occur in a base rate case." It is obvious that witness Ramas does not have an adequate appreciation of the rigors of a need determination proceeding.

Q. What has been your experience with need determinations and the rigors of cost review as compared to the review of generating plant costs in a rate case?

A. During my tenure on the Commission, I sat on twenty-five separate need determination cases. For those companies, such as FPL, that are rate regulated, my experience has been that the rigors of cost review and operational scrutiny was as great or greater in the need determinations as the level of review and scrutiny when those plants were placed in rate base in a rate case. I have complete confidence that the use of the need determination costs in the GBRA mechanism is appropriate and adequately protects customers from potentially excessive costs.

Q. Witness Ramas further criticizes the GBRA mechanism because it ignores other cost offsets. Is this a legitimate criticism?

A. I agree with witness Ramas that "Generation plants are not added to the system in a vacuum with all other components of the base revenue requirements calculation remaining unchanged." I also agree that there could be increased revenues from customer growth and the potential for cost savings to help offset the cost of the plants. However, witness Ramas ignores the reality that FPL will be adding substantial investments in transmission, distribution, and other operating assets which will add to FPL's rate base and which are not eligible for GBRA treatment. She also ignores the increased cost of serving new customers, the potential for increasing interest rates, and the ever present cost increases associated with inflation over the next few years. So the question for the Commission is whether on balance there will be net cost increases above or below the limited structured increases associated with the three generating units qualifying for GBRA or whether there should be rate cases with the optimistic expectations that all other costs will be trending downward as opposed to upward. It is possible and perhaps likely, that the later alternative advocated by witness Ramas will result in rates higher than those contemplated by the Proposed Settlement Agreement. What is known with certainty is that the Proposed Settlement Agreement offers rate stability and predictability that are made possible by the limited increases provided within the confines of the GBRA mechanism.

Q. Does this conclude your testimony?

A. Yes, it does.