

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 160021-EI

In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company.

DOCKET NO. 160061-EI

In re: 2016 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 160062-EI

In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company.

DOCKET NO. 160088-EI  
ORDER NO. PSC-16-0182-PCO-EI  
ISSUED: May 4, 2016

FIRST ORDER REVISING ORDER ESTABLISHING PROCEDURE AND  
ORDER GRANTING MOTION TO CONSOLIDATE

On April 8, 2016, the Office of the Public Counsel (OPC), filed a Motion to Modify Key Activities Dates and Discovery Timeframes (Modification Motion) requesting that certain filing and discovery deadline dates established in Order No. PSC-16-0125-PCO-EI (OEP), issued on March 25, 2016, be modified. The time to file written objections to OPC's Modification Motion ran on April 12, 2016. No written objection to the Modification Motion has been filed.

On April 22, 2016, the staff of the Florida Public Service Commission (Commission staff) filed a Motion to Consolidate Docket Nos. 160021-EI, 160061-EI, 160062-EI and 160088-EI (Consolidation Motion). Florida Power & Light Company (FPL), the Federal Executive Agencies (FEA), Wal-Mart Stores East, LP and Sam's East, Inc. (Walmart), and the South Florida Hospital and Healthcare Association (SFHHA) support the motion; the Florida Industrial Power Users Group (FIPUG) and Office of the Public Counsel (OPC) took no position on the Motion at the time of filing. The deadline for responding to the Consolidation Motion ran on April 29, 2016, without any written objections being filed.

Commission staff argues that these dockets should be consolidated for several reasons. First, the depreciation expense, dismantlement expense, capital expenditures and operation and maintenance (O&M) expenses included in the FPL rate case Minimum Filing Requirements (MFRs) for the 2017 and 2018 test years and the Okeechobee Energy Center generation base rate adjustment in 2019 are all derived from the 2016 Depreciation and Dismantlement Study (Depreciation Study) and the 2016-2018 Storm Hardening Plan (Storm Hardening Plan). Second, consolidation would place all of the studies and all of the testimony and discovery associated with the studies in the rate case docket resulting in a consolidated, coordinated, and unified final hearing record. Third, the witnesses who support the MFRs are the same witnesses

who support the Depreciation and Storm Hardening Studies. Fourth, consolidation of the Depreciation Study with the rate case is consistent with past Commission practice in FPL's 2005 and 2009 rate cases.<sup>1</sup> Fifth, the Incentive Mechanism methodology FPL seeks to modify in Docket No. 160088-EI is unique to FPL and was part of the Revised Stipulation and Settlement approved by the Commission in the 2012 rate case.<sup>2</sup> The original methodology approved in the 2012 rate case, as well as the modified methodology proposed in Docket No. 160088-EI, reward FPL for engaging in wholesale transactions and other asset optimization activities by allowing FPL to share in a portion of any gains generated and be reimbursed for the variable O&M costs associated with those sales and activities. Continuation of the Incentive Mechanism is a policy decision which should be made in the context of a full rate case, not considered in isolation or as part of the Fuel Docket. This is especially true where FPL has requested in the rate case that it be granted a 50 basis point adder to its return on equity as a reward for superior and low cost service.

Finally, Commission staff argues that no party is adversely affected by the consolidation. Testimony supporting the 2016 Depreciation and Dismantlement Study was filed on March 15, 2016, as part of the rate case.<sup>3</sup> Testimony supporting the 2016-2018 Storm Hardening Plan was filed on March 15, 2016, as well.<sup>4</sup> Testimony supporting the Incentive Mechanism was filed on April 15, 2016, one month later.<sup>5</sup> Discovery on the Depreciation and Storm Hardening Studies has already been issued by Commission staff, OPC, FIPUG and SFHHA.

Finally, should the consolidation be granted, Commission staff has requested that the number of interrogatories, production of documents, and requests for admissions be expanded from 500 to 850 each, including all subparts, consistent with the Commission's decision in Order No. PSC-05-0499-PCO-EI, issued in FPL's 2005 rate case.

Rule 28-106.208, F.A.C., allows consolidation when separate matters "involve similar issues of law or fact, or identical parties" and when consolidation "would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party." In the instant case, the parties in all of the dockets are virtually identical. Further, the issues and information in the Depreciation and Storm Hardening Studies are so embedded in the rate case MFR calculations that the request to approve these studies is naturally and rationally included in the rate case. The Incentive Mechanism should also be consolidated with

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<sup>1</sup> Order No. PSC-05-0499-PCO-EI (Order No. PSC-05-0499), issued on May 9, 2005, in Docket No. 041291-EI, In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company; Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company; and Docket No. 050188-EI, In re: 2005 comprehensive depreciation study by Florida Power & Light Company; Order No. PSC-09-0311-PCO-EI, issued on May 7, 2009, in Docket No. 080677-EI, In re: Petition for increase in rates by Florida Power & Light Company and Docket No. 090130-EI, In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

<sup>2</sup> Order No. PSC-13-0023-S-EI, issued on January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company.

<sup>3</sup> Testimony of Ned W. Allis.

<sup>4</sup> Testimony of Manuel B. Miranda.

<sup>5</sup> Testimony of Sam Forrest.

the rate case since the assets generating the incentive and their associated O&M costs are included in the rate case MFRs.

Therefore, I find that consolidation of the Depreciation Study, Storm Hardening Study and Incentive Mechanism dockets with the FPL rate case docket will result in more efficient handling of the large volume of technical data that has been, and will be, filed in these cases and enhance the ability of all parties to fully develop and present their positions at the final hearing now scheduled for August 22 through September 2, 2016. For the reasons stated above, I find that the requirements of Rule 28-106.208, F.A.C., have been met and the consolidation of Docket Nos. 160021-EI, 160061-EI, 160062-EI, and 160088-EI is appropriate.

I also find it appropriate to expand the number of interrogatories, requests for production of documents, and requests for admissions from 500 each to 850 each, including subparts. This is consistent with past practice and will afford all parties ample opportunity to fully develop their positions. Further, the modified schedule below continues to balance the need for full development of the issues raised in these dockets with the time requirements for final Commission action imposed by Section 366.06, Florida Statutes (F.S.). Therefore, Section IX of the OEP will be deleted and replaced with the following:

**IX. Controlling Dates**

The following dates have been established to govern the key activities of this case for Docket Nos. 160021-EI and 160062-EI:

- |     |  |                                |
|-----|--|--------------------------------|
| (1) | Utility's testimony and exhibits                       | March 15, 2016                 |
| (2) | Intervenors' testimony and exhibits                    | July 7, 2016                   |
| (3) | Staff's testimony and exhibits, if any                 | July 18, 2016                  |
| (4) | Rebuttal   | August 1, 2016                 |
| (5) | Prehearing Statements                                  | August 5, 2016                 |
| (6) | Prehearing Conference                                  | August 12, 2016                |
| (7) | Discovery deadline for direct and intervenor testimony | August 12, 2016                |
|     | Discovery deadline for rebuttal testimony              | August 16, 2016                |
| (8) | Hearing  | August 22 to September 2, 2016 |
| (9) | Briefs   | September 16, 2016             |

The following dates have been established to govern the key activities of this case for Docket Nos. 160061-EI and 160088-EI:

- |     |   |                 |
|-----|---|-----------------|
| (1) | Utility's testimony and exhibits –Docket No. 160061-EI  | March 15, 2016  |
|     | Utility's testimony and exhibits - Docket No. 160088-EI | April 15, 2016  |
| (2) | Intervenors' testimony and exhibits                     | May 31, 2016    |
| (3) | Staff's testimony and exhibits, if any                  | June 21, 2016   |
| (4) | Rebuttal  | July 5, 2016    |
| (5) | Prehearing Statements                                   | August 5, 2016  |
| (6) | Prehearing Conference                                   | August 12, 2016 |

- |     |  |                                |
|-----|--|--------------------------------|
| (7) | Discovery deadline for direct and intervenor testimony | August 12, 2016                |
|     | Discovery deadline for rebuttal testimony              | August 16, 2016                |
| (8) | Hearing  | August 22 to September 2, 2016 |
| (9) | Briefs   | September 16, 2016             |

Further, as per the agreement of the parties, Section V.A.(5) shall be deleted and replaced with the following:

- (5) Discovery responses related to the utility's testimony and exhibits shall be served within 25 days (inclusive of mailing) of receipt of the discovery request. Discovery requests related to matters addressed in intervenor, staff, and rebuttal testimony and exhibits shall be served within 10 days of receipt of the discovery request.

Therefore, it is

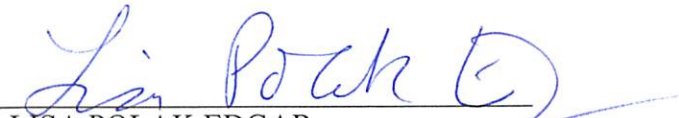
ORDERED by Lisa Polak Edgar, as Prehearing Officer, that Order No. PSC-16-0125-PCO-EI, issued on March 25, 2016, shall be modified as stated above. It is further

ORDERED that Order No. PSC-16-0125-PCO-EI, is hereby reaffirmed to the extent not inconsistent with this Order. It is further

ORDERED that Commission staff's Motion to Consolidate Dockets filed on April 22, 2016, is hereby granted and that Docket Nos. 160021-EI, 160061-EI, 160062-EI and 160088-EI, are consolidated for all purposes. It is further

ORDERED that interrogatories, requests for production of documents and requests for admission shall be expanded from 500 each to 850 each, including subparts.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 4th day  
of May, 2016.



LISA POLAK EDGAR  
Commissioner and Prehearing Officer  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.