

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 FILED: August 26, 2016

CITIZENS' MOTION TO DISMISS FPL'S AMENDED REQUEST FOR CREATION OF A RESERVE AMOUNT AMORITIZATION MECHANISM OR ALTERNATIVELY, MOTION FOR DIRECTED FINAL DECISION THAT FPL HAS FAILED TO PRODUCE ANY EVIDENCE IN SUPPORT OF ITS REQUEST

The Citizens of the State of Florida (Citizens), pursuant to Rule 28-106.204, Florida Administrative Code, hereby file Citizens' Motion to Dismiss FPL's Amended Request for creation of a Reserve Amount Amortization Mechanism, or, alternatively, Motion for directed final decision that FPL has failed to produce any evidence in support of its amended request in above dockets. The Citizens request that this Motion be granted and as grounds state the following:

1. On August 12, 2016, after the conclusion of the deposition of its depreciation witness Ned Allis, FPL amended its position on Issue 48 to add the phrase "unless another disposition has the ability to defer or avoid future base rate proceedings." Prehearing Conference TR at 54. The discovery cut-off was on August 16, 2016 and no further opportunity to conduct discovery on FPL's modification of its proposal was reasonably available.

2. On August 22, 2016 at the opening of the hearing, FPL's General Counsel stated in his opening statement on page 69, line 15-22:

If the Commission is to find acceptable any aspect of Mr. Pous's depreciation study, it should not be for the purpose of finding an arbitrary means to lower FPL's revenue requirement, but rather for the only purpose of deferring or avoiding a second base rate case over the same four-year period similar to how the reserve surplus was used in the past case.

Prehearing Conference TR 69.

3. On August 23, 2016 FPL Witness Keith Ferguson testified in support of the Depreciation Study that depending upon the plant balance to which it is applied, the theoretical reserve imbalance to which FPL's proposed depreciation rates would be applied ranges from (\$99 million) (deficiency) to \$80.4 million (surplus). He testified that the imbalance was 1% of total depreciation reserve. He made no changes to his testimony other than the adjustments in FPL's Second Notice of Amended Adjustments ("Second Notice"). TR 1786-1792.

4. On August 24, 2016, FPL's depreciation expert Allis testified that his testimony did not change except as provided in the Second Notice.

5. On August 24, FPL's Vice President of Finance, Bob Barrett testified that he had no changes to his testimony other than those reflected in Witness Ousdahl's exhibits KO-19 and KO-20 yet he specifically suggested the Commission should or could continue the amortization mechanism "to...make a commitment to stay out for years." TR1455, 1480, 1486-1487. Otherwise, Mr. Barrett did not testify that there would be any change to the depreciation surplus as a result of the 2016 Depreciation Study. He also testified that the 2016 Depreciation Study assumed that the 2012 reserve amount was assumed to be zero and that no FPL witness testified in support of creation of a reserve surplus amortization mechanism. TR 1476, 1482.

6. In sum, there is no evidence in FPL’s direct case that supports the creation of reserve surplus based on the 2016 Depreciation Study.

7. To the extent that FPL has amended its petition to ask the Commission to create a Depreciation Reserve Surplus Amortization Mechanism using the depreciation parameters supported in the Depreciation Study or supported in its direct case, there is no evidence supporting such a mechanism or supporting a basis for the Commission to create such a mechanism.

Accordingly, the OPC moves the Commission to dismiss FPL’s amended request or alternatively, to issue a directed final decision that FPL has failed to meet its burden to present competent, substantial evidence supporting the creation of a reserve amount amortization mechanism as a part of the four year “stay out” requested in its March 15, 2016 petition. Florida Real Estate Commission ex. rel. Harold L. Clark, Petitioner, vs. Fritz Gibson, Jr., Atlantic Equities, Inc., Sheldon Norman Cook, Robert Wandler, William J. Geary, Bernadine Geary, And Florida Real Estate Enterprises, Inc., Respondent. Progress Docket No. 2875, [1977 Fla. Div. Adm. Hear. LEXIS 3447](#); David M. Blacketter, Petitioner, vs. Department Of Transportation, Career Service Commission, Respondent, [1977 Fla. Div. Adm. Hear. LEXIS 3930](#).

Respectfully Submitted

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy if the foregoing has been furnished on this 26th day of August, 2016, to the following:

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