BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20210015-EI

Petition for rate increase by Florida Power & Light Company.
_____/

VOLUME 14
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DIRECT PREFILED OF KARL RABAGO

PROCEEDINGS:	HEARING
COMMISSIONERS PARTICIPATING:	CHAIRMAN GARY F. CLARK COMMISSIONER ART GRAHAM COMMISSIONER ANDREW GILES FAY COMMISSIONER MIKE LA ROSA COMMISSIONER GABRIELLA PASSIDOMO
DATE:	Monday, September 20, 2021
TIME:	Commenced: 9:30 a.m. Concluded: 12:00 p.m.
PLACE:	Betty Easley Conference Center Room 148 4075 Esplanade Way Tallahassee, Florida
REPORTED BY:	DEBRA R. KRICK Court Reporter
APPEARANCES:	(As heretofore noted.)

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I N D E X

P R O C E E D I N G S

(Transcript follows in sequence from Volume 13.)

(Whereupon, prefiled direct testimony of Karl Rabago was inserted.)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re:	**Petition for rate increase by Florida Power & Light Company**	**)** **)** **)**	**DOCKET NO. 20210015-EI**

DIRECT TESTIMONY

OF KARL R. RÁBAGO

ON BEHALF OF

FLORIDA RISING, INC.,

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF FLORIDA,

AND

ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA, INC.

June 21, 2021

I. INTRODUCTION AND OVERVIEW

Q. Please state your name, business name, and address.

A. My name is Karl R. Rábago. I am the principal of Rábago Energy LLC, a Colorado limited liability company, located at 2025 E. 24th Avenue, Denver, Colorado.

Q. On whose behalf are you appearing in this proceeding?

A. I appear here in my capacity as an expert witness on behalf of Florida Rising, Inc. ("FL Rising"), the League of United Latin American Citizens of Florida ("LULAC"), and the Environmental Confederation of Southwest Florida, Inc. ("ECOSWF").

Q. Please summarize your experience and expertise in the field of electric utility regulation.

A. I have worked for more than 30 years in the electricity industry and related fields. I am actively involved in a wide range of electric utility issues across the United States. My previous employment experience includes Commissioner with the Public Utility Commission of Texas, Deputy Assistant Secretary with the U.S. Department of Energy, Vice President with Austin Energy, Executive Director of the Pace Energy and Climate Center, Managing Director with the Rocky Mountain Institute, and Director with AES Corporation, among others. A detailed resume is attached as Exhibit KRR-1.

Q. Have you ever testified before the Florida Public Service Commission ("Commission") or other regulatory agencies?

A. I have submitted testimony before the Commission in the past in several proceedings, including the Florida Energy Efficiency and Conservation Act ("FEECA") proceedings in 2014 (Docket Nos. 130199-EI, 130200-EI, 130201-EI, and 130202-EI), the Florida Power & Light need determination case for the Okeechobee Plant (Docket No. 150166-EI), the Gulf Power general rate case in 2017 (Docket No.

160186-EI), and the Duke Energy Florida "clean energy connection" program application (Docket No. 20200176-EI). In the past six years, I have submitted testimony, comments, or presentations in proceedings in Alabama, Arkansas, Arizona, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Guam, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Washington, and Wisconsin. I have also testified before the U.S. Congress and have been a participant in comments and briefs filed at several federal agencies and courts. A listing of my previous testimony is attached as Exhibit KRR-2.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to share my evaluation of the proposal for rate increases, resource investments, plant retirements, and other requests submitted by Florida Power and Light ("the Company") in this proceeding. I will address several ways in which the financial burdens and hardships that the Company seeks to impose on its customers and the environment can be lessened to ensure fair, just, and reasonable rates flow from this proceeding.

Q. How would you characterize, at a high level, the Company's proposals in this proceeding?

A. The Company proposes rate changes and other actions that unnecessarily, unreasonably, and unjustly seek to enrich its stockholders at the expense of its customers and the environment. The Company's application proposes a four-year rate plan covering the years 2022-2025 and includes proposals for nearly $2 billion in additions to base revenue requirements due to capital spending in 2022 and after accounting adjustment results in $1.1 billion in new revenue requirements.[1] The

Company further proposes to add another $616 million in revenue requirement related to capital spending and an additional $607 million in net revenue requirement increases in 2023. A major factor driving rate and cost increases, and proposed shareholder profits, is an unreasonable request for an 11.5% return on equity ("ROE") and an equity ratio of over 59%, at a time when industry ROEs are trending below 10% and the cost of debt is very low. In several other ways, the Company proposes to make itself a haven for overearning, including proposals for authority to continue to manipulate amortization schedules in order to ensure continued maximum earned ROE; for an unearned ROE bonus for "performance;" for a significant reduction in the compensation paid for cost-effective demand response incentives; for a massive transmission project that is called the "North Florida Resiliency Connection," which will cost customers nearly $722 million dollars and mostly be used to transfer excess FPL energy to newly acquired Gulf Power customers, but not to reduce the excessive 20% reserve margin in the Company's service territory; for massive spending on rebuilding the large-scale electric transmission system in general; and even for a reduction in the inverted block rate increase for very high users of electricity.

Q. What law and regulatory precedent guides the Commission decision in this matter?

A. Under Florida law,[2] no utility may charge or receive, directly or indirectly, any rate that is unfair, unjust, or unreasonable. No utility may make or give any undue or unreasonable preference or advantage to any person or locality or subject any person to undue or unreasonable prejudice or disadvantage. In short, Florida law charges the Commission with approving only those rates that are fair, reasonable, and just. In setting rates, the Commission must investigate and determine the actual legitimate costs of utility investments actually used and useful in the public service.

Q. What specific elements of the Company's proposals do you address in this testimony?

A. My testimony focuses on a few key issues of greatest significance to FL Rising, ECOSWF, and LULAC. Those are proposals by the Company to increase rates and charges that the organizations and their members will have to pay for electric service over the term of the proposed rates. The issues addressed are:

- The proposed return on equity.
- The proposed capital structure, particularly equity ratio.
- The proposal for a return on equity increase based on "performance."
- Key proposals for new capital spending, including proposals to charge customers for uneconomic and retired generation, especially considering financial risk and forecast data.
- The proposal to continue and accelerate investment in risky fossil-fueled generation.
- The proposal to further weaken demand response program incentives.
- The proposal to charge customers nearly $3 million each year for political speech conducted by the Edison Electric Institute ("EEI").

My testimony summarizes these issues with findings and conclusions that the Company's proposed rates, charges, spending, and other actions fail to satisfy the requirement for being fair, just, and reasonable.

Q. Company witness Silagy asserts that the Company is an above average utility whose customers pay below average bills due to low rates and low costs.[3] Doesn't this rebut your assertion that Company proposals in this proceeding will result in rates that are unjust, unfair, and unreasonable?

A. No. Witness Silagy relies on misleading statistical sleight of hand to support his

assertions about low Company bills. He consistently bases his assertions on the completely unrealistic and false assumption that the average customer for every utility uses an average 1,000 kWh per month.[4] When corrected for actual average usage and using Energy Information Administration ("EIA") data on revenue per customer in 2019, FPL's performance in terms of residential customer bills is decidedly below average when compared to other large investor-owned utilities.

Table 1: Residential Rate Comparison
Source: EIA Form EIA-861 Report (2019 data)

Residential TCC-5	Revenue ($/kWh) *EIA Rev Data*	Avg Monthly Use *EIA Data*	Monthly "Bill" (Rev/Cust/Mo) *Calculated*
Public Svc Co of Colorado	$ 0.1109	614	$ 68
Commonwealth Edison	$ 0.1330	583	$ 78
Niagara Mohawk	$ 0.1254	624	$ 78
Northern States Power - Minn	$ 0.1362	615	$ 84
Southern Calif Edison	$ 0.1621	573	$ 93
Public Svc Gas & Elec	$ 0.1670	560	$ 94
Consolidated Edison	$ 0.2530	372	$ 94
San Diego Gas & Elec	$ 0.2578	384	$ 99
Detroit Edison	$ 0.1611	627	$ 101
Consumers Energy	$ 0.1585	646	$ 102
Union Electric	$ 0.1038	1057	$ 110
Pacific Gas & Elec	$ 0.2235	528	$ 118
Florida Power & Light	$ 0.1103	1119	$ 123
Georgia Pwr	$ 0.1210	1050	$ 127
Duke Energy - SC	$ 0.1148	1108	$ 127
Duke Energy - NC	$ 0.1183	1101	$ 130
Arizona Public Svc	$ 0.1360	978	$ 133
Virginia Elec Power	$ 0.1206	1107	$ 134
Duke Energy - FL	$ 0.1362	1065	$ 145
Alabama Pwr	$ 0.1341	1188	$ 159
Average of Large IOUs	$ 0.1492	795	$ 109.85

In addition, the Company's performance against indicators like heat rate, forced outage rate, and avoided non-fuel O&M, as well as conventional system-wide reliability metrics like SAIDI[5] can likely be explained at least in part by the Company's continued pattern of building power plants only to retire them before the end of their useful lives, build too many of them, and maintain an uneconomic and unreasonable 20% reserve margin. Not surprisingly, the Company's generation overbuilding yields loss of load probability ("LOLP") statistics that show uneconomic

excess as well. According to the Company, its LOLP in 2023 is such that an occurrence of lost load is likely only once every 100,000+ years.[6] At the very least, the capital investment-driven revenue requirement burden imposed on customers as a result of such spending should be evaluated for whether such costs outweigh the purported operational and reliability benefits obtained. Finally, when the Company asserts that long-run savings, in the form of Cumulative Present Value of Revenue Requirements ("CPVRR") numbers are significant, such benefits must be evaluated in light of amortization period adjustments, early retirements, and issues of intergenerational equity.[7]

Q. You are implying that current impacts on actual residential customer bills calculated from actual usage levels should be an important factor in evaluating the Company's performance and the rates, programs, adjustments, and spending it is proposing. Why are current and actual bill impacts important?

A. Current and actual residential bill impacts are not the only factor for consideration in setting rates, to be sure, but they are critically important today and to the members and organizations on whose behalf I am testifying. Some of the reasons that these impacts are so important include:

- Florida and the nation are just beginning to emerge from a global pandemic that has had profound impacts on household budgets in terms of both costs and income. The recovery is far from complete and many customers are still hurting. This is a poor time to inflict additional burdens through rate increases.
- Millions of Floridians live in poverty and in households where the average income is so low that they face a significant energy burden that will be made worse by the increases in bills proposed in this proceeding.[8]
- The way in which the Company proposes to implement the rate increases in this

case imposes more burden on low users of electricity than on high electricity users. Low users of electricity in Florida are more likely to be low-income customers, members of minority races or ethnic groups, or elderly, so the impacts of the rate increases are felt most by those least able to bear the added burden.[9]

- Rate increases required to pay for polluting fossil-fueled power plants constitute a significant opportunity cost for society and customers as well. Building new and refurbishing old fossil plants consumes capital that could be directed toward accelerating a clean energy transition. Of course, such plants represent long-run costs and increasing risks of stranded costs as well.

Q. Please summarize your recommendations based on your findings.

A. Based on my review of the evidence relating to the topics previously listed, I recommend that the Commission deny the Company's petition and direct it to refile after having addressed the problems cited in this testimony. On the specific issues, I offer the following recommendations to the Commission:

Return on Equity and Capital Structure

- The Commission should allow the Company to earn a return on equity of no more than 10.00%, centered in a 200-basis point range of 9.00% to 11.00%.
- The Commission should deny the Company's proposal for a performance adder of 50 basis points on the return on equity.
- The Commission should allow the Company to adopt a capital structure with an equity ratio no higher than 52.93%.

Capital Spending and Plant Retirements

- The Commission should deny the proposal to construct the four combustion turbine units (Crist 4x0 CT – 938 MW) and require a full cost-effectiveness analysis, including evaluation of non-fossil and non-generation alternatives,

including non-utility alternatives.

- The Commission should deny the proposal to construct the NFRC transmission project and require a full cost-effectiveness analysis, including evaluation of non-wires and non-utility solutions that can avoid or delay the need for the capacity provided by the project.
- The Commission should deny the proposal to implement the hydrogen project.
- The Commission should deny the proposal to approve regulatory asset treatment for remaining book balances on retired generation and require the Company to conduct full cost-effectiveness evaluation for each proposed retirement and to demonstrate that it is fair, just, and reasonable to charge customers the full cost of facilities that are no longer used and useful.
- The Commission should deny the Company proposal to extend the amortization periods for nuclear, combined cycle, solar, and other assets and the proposal to continue the RSAM process for manipulating depreciation expenses and earnings.

CDR/CILC Program and Energy Efficiency

- The Commission should deny the Company proposal to reduce the compensation rate for the CDR and CILC programs and order the Company to aggressively pursue program enrollment growth.
- The Commission should order the Company to develop strong energy savings targets even before the next FEECA proceeding and especially as a resource that can avoid, reduce, or delay new generation, transmission, and distribution infrastructure.
- The Commission order the Company to also develop specific targets for delivery of comprehensive programs to low-income and other underserved customer categories, such as small businesses as a pre-condition for any kind of

performance incentive.

- The Commission should direct the Company to stop relying on the RIM as the primary screen for energy efficiency cost effectiveness and to instead use the utility cost test for utility proposals as a pre-condition for any kind of performance incentive.
- The Commission should direct the Company not to use a two-year payback screen on energy efficiency programs evaluated for delivery to customers as a pre-condition for any kind of performance incentive.

Forcing Customers to Pay for EEI's Political Speech

- The Commission should deny the Company proposal to recover EEI dues from customers absent an evidentiary showing that the dues are entirely used to advance the interests of customers and do not involve any form of political speech.

II. RETURN ON EQUITY AND CAPITAL STRUCTURE

Q. What amount does the Company propose it should receive as a return on equity in this proceeding, and what fraction of the capital structure does it propose that equity should comprise?

A. The Company proposes a retail regulatory ROE midpoint for FPL of 11.5%, which includes a "performance incentive" of 50 basis points.[10] In 2023, the Company proposes a revenue requirement increase to ensure that the earned ROE remains at 11.5% even as new capital investments are made.[11] The Company proposes an equity ratio of 59.6%.[12]

Q. How do the 11.5% ROE and 59.6% equity ratio requests square with experience across the U.S.?

A. The Edison Electric Institute's ("EEI") Annual Financial Review for 2020 reports that

across 2019 and 2020, equity comprised about 44% of capital structure while debt constituted 56%.[13] Regarding ROE, EEI reports:

> For 2020, the average awarded ROE was 9.43%, continuing a negative trend. By way of comparison, for 2019, the average awarded ROE was 9.64%. On average, awarded ROE in 2020 was approximately 30 basis points lower than the average requested ROE. Consistent with declining interest rates, average awarded ROEs have been trending downward for the electric industry over the past four decades. In addition, the increased use of adjustment and cost recovery mechanisms, which arguably reduce risk of recovery for utilities, have often been cited by commissions as contributing to lower authorized ROEs. Going forward, it is reasonable to expect that ROEs will remain lower due to the sustained low interest rate environment combined with current economic conditions as a result of the pandemic.[14]

Q. How does the Company justify a request so out of step with utility industry conditions?

A. The Company relies upon testimony by witness James M. Coyne to support a proposal of an 11.0% ROE level and the additional testimony of witness Robert E. Barrett for an inflator of 0.5% based on Company performance. Mr. Coyne's testimony uses four kinds of analysis, simply averaged, to support his proposal.[15] Two of Mr. Coyne's methods yielded ROEs that were relatively in line with the EEI data—the DCF method yielded an ROE of 9.29%, and the Risk Premium method yielded an ROE of 9.88%. Instead of reporting and averaging the awarded ROEs for utilities in the proxy group of companies developed for the evaluation, Mr. Coyne developed an "expected earnings" method that showed an average of 10.22%. Mr. Coyne's CAPM method resulted in an unbelievably high 14.17% ROE, which

distorted the average results. Simply averaging the DCF and Risk Premium approaches results in a much more reasonable starting point of 9.585%, which is in line with industry experience. Even adding in Mr. Coyne's expected earned ROE results in an ROE of 9.79%.[16] It is important to note that the recent Duke Energy Florida general rate case resulted in a very reasonable ROE of 9.85%, which is well aligned with these values, and the Commission order finding that this ROE resulted in rates that were fair, just, and reasonable, was just issued on June 4, 2021.[17]

Mr. Coyne found the proposed 59.6% equity ratio was "the upper end" of a range of actual common equity ratios for proxy group companies that ran from 46.91% to 58.95%.[18] The proxy group midpoint, not counting the Company, is 52.93%, or about 6.67% lower than the Company's proposed ratio. Mr. Coyne tautologically justifies the Company's equity ratio by referencing the large amount of capital investment the Company plans to make. In addition, Mr. Coyne believes the higher equity ratio is justified by the risk associated with nuclear plant assets and storms.[19]

Q. Mr. Coyne also asserts that the Company faces more risks that other companies and that this should be a factor in awarding a higher ROE.[20] Do you agree with his testimony on this issue?

A. No. Mr. Coyne stretches logic and reason to paint a picture of the Company as a risky utility operating in a risky environment and therefore needing a high ROE to attract capital. First, he points to the Company's excessive capital investment program as creating a risk, noting that the Company's capital expenditures to net utility plant ratio is the highest by far among the proxy companies and 1.46 times higher than the proxy group median. This is a reason to both decrease the ROE and the capital spend, not increase both. Second, Mr. Coyne finds the Company's ownership of nuclear

generating assets a relative risk increaser, even though the majority of companies in the proxy group have nuclear assets in their generation mix, and to the same general degree. Mr. Coyne finds the Company's exposure to severe weather another risk increaser. Setting aside the irony of the Company's history of greenhouse gas emissions and efforts to expand its fossil generation fleet even in this proceeding, the fact is that the Company benefits from a legislated cost recovery account that ensures timely and full recovery of prudently incurred storm recovery costs. With the storm hardening mandate and the storm recovery cost mechanism, even though severe weather is likely for Florida, the Company's exposure to financial threats as a result is largely in the Company's hands. Mr. Coyne also finds that the Company is choosing to take on additional risk with its proposal for a multi-year rate plan. As I point out in this testimony, the multi-year rate plan does not create a significant negative financial risk for the Company or its shareholders. In all, Mr. Coyne fails to make a case for a higher ROE for the Company based on risk.

Q. How does the Company justify the performance adder of 50 additional basis points of ROE on all rate base for the next four years?

A. Company witness Barrett provides a list of reasons why he believes the Company should be allowed to earn 50 extra basis points of earnings on its rate base, including the massive new investments proposed.[21] These reasons relate to things that have happened in the past and are not conditioned on any future performance. These reasons are not indexed against performance criteria set out prior to the activities. And, as previously stated, many of the cited reasons could well be the secondary result of excessive plant investments and early retirements of uneconomic plants and unwise prior investment decisions. Mr. Barrett cites low operating costs—which would be expected with a younger generation fleet. Mr. Barrett cites reduced

emissions, which are related to replacing coal units with new gas units—which constitute the majority of the Company's generation and would be expected to have higher efficiency rates than gas plants at utilities that never invested in coal or retired such plants years ago. The development of new solar plants in very recent years has also had a small impact on past emissions rates. The young fleet of generation, which resulted in ballooning rate base and merely average resulting customer bills, likely drives good reliability numbers, as does overbuilding to a 20% reserve margin. But the capital cost of these performance metrics was not analyzed.

Q. Are you opposed to ROE adders based on superior performance?

A. Absolutely not. But given the burdens imposed on customers because of increased rates, such rewards to shareholders must be conditioned on meeting identified performance objectives set out in advance, with performance measured against clear and objective metrics. In addition, the Company must demonstrate net benefits to customers against total costs and must demonstrate that actions it took resulted in the realization of the benefits. The Company's proposed basis for the ROE enhancement is simply too subjective.

Q. What ROE do you recommend that the Commission approve for the Company?

A. I would recommend an ROE based on the average of Mr. Coyne's method excluding the outlier CAPM model he applied, and when adjusting for gradualism and flotation costs, I recommend an ROE of no more than 10.00% and without any performance adder. Company witness Barrett provides a list of reasons why he believes the Company should be allowed to earn 50 extra basis points of earnings on its rate base, including the massive new investments proposed.[22] These reasons relate to things that have happened in the past and are not conditioned on any future performance. These reasons are not indexed against performance criteria set out prior to the activities.

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Q. Are you opposed to ROE adders based on superior performance?

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Q. What ROE do you recommend that the Commission approve for the Company?

A. I would recommend an ROE based on the average of Mr. Coyne's method excluding the outlier CAPM model he applied, and when adjusting for gradualism and flotation costs, I recommend an ROE at 10.00% and without any performance adder.

Q. What equity ratio do you recommend that the Commission approve?

A. I recommend an equity ratio aligned with the midpoint of the proxy group, at 52.93%. There is no good reason to support a higher equity ratio and over-earning by the Company at the expense of rate payers, especially in an era of consistently low cost of debt.

Q. What are the impacts of the adjustments to ROE and equity ratio you would propose in terms of revenue requirement?

A. Because of the large rate base in place and the significant proposals for rate base growth, the impact of a lower ROE and equity ratio would be great for residential customers. The Company indicates that for every reduction of 10 basis points (1/100th of a percent), the revenue requirement is reduced by three-quarters of one percent (0.75%).[23] This means that adjustments to the ROE and equity ratio to make them more just and reasonable can significantly reduce the rate impact of proposed spending and investment by the Company. Moreover, when the unreasonable spending proposals by the Company are eliminated and ROE and equity ratio are corrected, the Commission could actually order a decrease in customer rates for FPL customers.

Q. Have you quantified the revenue requirement reductions that can result from the setting of more reasonable values for the Company's ROE and equity ratio?

A. Yes. When the Company revenue requirement is recalculated with only the equity ratio changed to 52.93%, the revenue requirement drops by $316 million dollars (28.5%) with the Reserve Surplus Amortization Mechanism ("RSAM") in place, and a similar amount without the RSAM. As I will testify later, the Commission should deny the Company proposal to continue the RSAM for several reasons, so it is important to note that simply adjusting the equity ratio to a more reasonable 52.93% produces revenue requirement savings that are far greater than the short-term savings

(with long-term consequences) created by the RSAM.

When both a more reasonable 52.93% equity ratio cap and 10.0% ROE cap are used, the revenue requirement falls by more than 70% from the Company request, or $793 million, to $315 million under the RSAM, and to $520 million without the RSAM.

Finally, it is worth noting that if the Commission were simply grant the Company the same ROE as awarded to Duke Energy Florida (9.85%), the revenue requirement with the RSAM would fall by more than half of the FPL request, or $580 million, to $529 million with the RSAM, and by $589 million to $722 million without the RSAM.

Table 2: Revenue Requirement with Changes in Equity Ratio and ROE

Scenario	Equity Ratio	ROE	Revenue Requirement	Savings vs. FPL Proposal	Percent Reduction
	With RSAM				
As Requested by FPL	59.60%	11.50%	$ 1,108,442	$ -	0.0%
Rábago Recommended Not-to-Exceed Equity Ratio	52.93%	11.50%	$ 792,101	$ (316,341)	-28.5%
Rábago Recommended Not-to-Exceed Equity Ratio & ROE	52.93%	10.00%	$ 315,614	$ (792,828)	-71.5%
Recommended Equity Ratio w Duke ROE	52.93%	9.85%	$ 267,966	$ (840,476)	-75.8%
FPL Request Equity Ratio w Duke ROE	59.60%	9.85%	$ 528,925	$ (579,517)	-52.3%
	Without RSAM				
As Requested by FPL	59.60%	11.50%	$ 1,310,999	$ -	0.0%
Recommended Not-to-Exceed Equity Ratio Rábago	52.93%	11.50%	$ 995,336	$ (315,663)	-24.1%
Recommend Not-to-Exceed Rábago	52.93%	10.00%	$ 519,875	$ (791,124)	-60.3%
Recommended Equity Ratio w Duke ROE	52.93%	9.85%	$ 473,123	$ (837,876)	-63.9%
FPL Request Equity Ratio w Duke ROE	59.60%	9.85%	$ 722,019	$ (588,980)	-44.9%

III. CAPITAL SPENDING AND PLANT RETIREMENTS

Q. What kinds of significant capital spending does the Company propose?

A. The Company proposes to build several new plants, including new fossil-fired plants and to convert or upgrade additional fossil-fired power plants during the rate period.

Results of the Current Step 3 Analyses

FPL Area Retirements / Additions	Gulf Area Retirements / Additions	Year	FPL Area Resource Additions	Gulf Area Resource Additions	RM%
1,043 MW Solar OUC PPA (100 MW) Indiantown PPA (330 MW)	---	2021	--	--	*
Manatee & Smaller Batteries (469 MW), DBEC (1,163 MW), Manatee 1&2 (1,618 MW), Scherer 4 (634 MW)	NFRC Line Crist 4x0 CT (938 MW) 149 MW Solar	2022	447 MW Solar	--	25.5
---	Shell PPA (885 MW)	2023	372.5 MW Solar	372.5 MW Solar	21.6
---	Daniel 1&2 (502 MW)	2024	521.5 MW Solar	372.5 MW Solar	20.0
---	Crist 4 (75 MW) , Pea Ridge (12 MW)	2025	521.5 MW Solar	372.5 MW Solar	20.1
---	---	2026	894 MW Solar	74.5 MW Solar	20.0
Broward South (4 MW)	Crist 5 (75 MW)	2027	968.5 MW Solar	--	20.0
---	Lansing Smith A (32 MW)	2028	1,192 MW Solar	--	20.0
---	---	2029	1,043 MW Solar, 3 x 100 MW Battery	149 MW Solar	20.0
---	Perdido 1&2 (3 MW)	2030	968.5 MW Solar, 1 x 100 MW Battery	223.5 MW Solar 3 x 100 MW Battery	20.0
			Step 3 CPVRR Cost =	**81,942**	
			FPL Stand-Alone + Gulf in Step 2 CPVRR =	**82,230**	
			CPVRR Cost Difference from Step 2 =	**(288)**	

Notes:
CPVRR costs are in million $ and are discounted at 7.52% from 2020-2068 (Gulf Step 2 CPVRR was re-calculated with a 7.52% discount rate)
The recalculated CPVRR for Gulf in Step 2 is $7,474M (Not including NFRC line costs)
Cost of the NFRC line project was omitted from these CPVRR calculations because that cost is the same in Steps 2 and 3
* - Each system (FPL and Gulf) has its own separate reserve margin in 2021

Results of

While new solar facilities are expected to result in net savings over their useful lives, the Company proposes amortization adjustments for these plants that will extend the time over which customers will be on the hook for revenue requirements as well as the total cost they will have to pay to the utility. The Company proposes that customers also pay for the book balance value of uneconomic power plants that the Company constructed in the past and now seeks to retire—plants that will no longer be used and useful in public service. Company witness Sim set out the incremental plant build (including the North Florida Resiliency Connection ("NFRC")) and retirement plans in his testimony, reflecting some $82 billion in Cumulative Present Value Revenue Requirements ("CPVRR") out to the year 2068.[24]

Q. Do you have any concerns about how the Company justifies its proposals?

A. Witness Sim used a computer model to generate the plans and provided summary outputs like the table above. The proposal to add nearly a gigawatt (938 MW) of new combustion turbines at the Crist site in 2022 has not been reviewed in any prior

proceeding but appears to have been necessitated by the fact that the new NFRC line creates a new single-contingency risk relating to power transfers from the FPL service territory to the Gulf Power service territory.[25] The acceleration of the commissioning date for those plants adds about $60 million in CPVRR that customers will have to pay.[26] In addition, the Company seeks the Commission's approval for a Solar Base Rate Adjustment mechanism to recover about $560 million in costs associated with about 1,800 MW of new solar facilities to be built in 2024 and 2025.[27] The Company is also proposing costly upgrades to existing combined cycle units (including Lansing Smith) and conversion of coal units at the Crist facility. These projects have not been subject to any review in any other proceeding prior to this case.[28] Finally, the Company proposes to spend an additional $65 million on a hydrogen project aimed at making hydrogen with solar energy to be blended with methane gas to burn in a power plant starting in 2023.[29] Taken together, these proposals are about the Company moving ahead with large and expensive projects which add to rates and without transparent planning processes and meaningful opportunities to review costs and alternatives. The computer modeling processes are essentially black box exercises and even though the model identified optimal in-service dates of 2024 and 2025 for the new gas plants, the Company accelerated the timetable and the pollution from those plants without any additional analysis or consideration of alternatives.[30] Cost-effectiveness analysis was not performed on the proposed plant additions.[31] The fact that the timetable was accelerated to mitigate the risk of a failure of the NFRC line raises serious questions about the wisdom of building yet another large transmission line in a storm-prone state. More solar generation means more clean energy, but the use of a base rate adjustment mechanism limits prudence review to after-the-fact review that will not occur in the context of a full rate case. The proposal

to use a cost cap in the adjustment mechanism creates an incentive to maximize spending under the cap. The hydrogen pilot project seems an expensive first step that should be subject to a more transparent review process.

Q. Do you have any additional comments to offer about the Company's proposed hydrogen project?

A. Yes. At one point in my career, I led the U.S. DOE hydrogen program, and subsequently at the Houston Advanced Research Center, I led a hydrogen demonstration project. Since that time, I have stayed abreast of hydrogen energy technology and market developments. Hydrogen is an interesting energy carrier option for specialized market and technology segments, but it is not a reasonable or economic option for large-scale energy systems and facilities like gigawatt-scale power plants. The Company's so-called "Green Hydrogen" project is interesting as an academic exercise but not as an electric utility project in light of the immense amount of technical and industrial research and development that remains to be done before huge amounts of electricity, paid for by captive monopoly customers, are diverted to what is essentially a fuels production research project. Current technologies for electrolysis are extravagantly expensive and consume huge amounts of electricity, meaning the net energy value of the hydrogen is negative and the total system costs of producing hydrogen to blend into a fossil methane pipeline and plant amounts to the application of a luxury energy carrier to a commodity energy construct. Demonstrating that bulk quantities of hydrogen inefficiently generated through energy-intense electrolysis processes can be combusted in a facility designed for fossil methane combustion is not a prudent use of customer dollars at a time when so many customers face extreme household financial challenges.

Hydrogen is much better suited to distributed energy resource applications and is

already cost-effective in many such applications—the Company should focus on identifying those opportunities. A less expensive and more cost-effective overall option for the Company's customers and a more responsible use of customer revenues would be participation in research consortiums focused on deployment and demonstration of small-scale hydrogen energy projects. Rather than going down a path of overbuilding the generation fleet and inefficiently consuming valuable solar facility production, the Company should focus on exploiting hydrogen's strengths as an energy carrier for distributed energy resource applications.

Q. What are your concerns about the way that the Company proposes to handle plant retirements?

A. My first concern is that the Company is proposing, as shown in the figure reproduced from Company witness Sim's testimony above, thousands of MW worth of plant retirements over the period 2021 through 2030 and that in each case, the Company is also proposing that any undepreciated book value remaining on those plants will be converted into a regulatory asset spread over 10 years to be collected from customers in rates even though the plants are not generating a single unit of energy. That is, customers will be forced to pay for costs associated with plants that are not used and useful for public service, were demonstrably uneconomic when retired, and may well have been unreasonable investments when first constructed. According to the testimony of Company witness Fuentes, these costs for retired plant will create $110 million in amortization expense in 2022 and $120 million in expense in 2023, and in each year for many years after.[32] The amount of such expenses will increase as more plants are retired, and the unamortized balances will earn a return for the Company each year. My second concern is what the volume of plant retirements says about the Company's planning processes and its approach to seeking least cost pathways to

providing service to customers.

Q. Are you opposed to the retirement of uneconomic generation plants?

A. Absolutely not. My concern is with the incentives the Company faces to constantly refresh its rate base with new generation plants if the Company never faces any real financial consequences for building power plants that become obsolete or uneconomic long before the end of their useful lives. Again, this is also an issue of planning and the aggressive pursuit of new plant construction without serious consideration of more cost-effective options. The Company should bear some of the risk associated with costs of uneconomic resources, especially if those costs arise due to poor planning decisions or insufficient consideration of cost-effective alternatives.

Q. Do you have any other concerns with the creation of regulatory assets and amortization of remaining book value of retired plants?

A. Yes. The Company has proposed that the Commission approve a continuation of the highly lucrative RSAM, which creates an amortization reserve that can be treated like a bank account to record debits or credits to depreciation expense to maximize returns for shareholders. So, while the Company proposes an ROE range of 10.5% to 12.5% with a midpoint at 11.5%,[33] by manipulating depreciation expenses with the proposed RSAM, it is really setting itself up for grossly overearning at a guaranteed 12.5% return in each year of the proposed multi-year rate plan.[34] And the RSAM approach potentially creates additional problems for customers down the road. A key component of the RSAM is the adjustment of depreciation rates through the extension of asset depreciation lives. In this case, the Company proposes a 33% extension to the useful life the St. Lucie nuclear plant, for which a license extension has not yet been granted; a 25% increase in the useful life of combined cycle plants, based on the experience with exactly one combined cycle plant operating in Oklahoma;[35] and other

adjustments. This creates the potential of even greater remaining book value when a plant becomes uneconomic, adding more to customer costs for plants that are not used and useful. Alternatively, a large remaining book value could unreasonably delay the cost-effective retirement of uneconomic plants.

Q. What do you recommend the Commission do regarding the Company's capital spending and plant retirement proposals?

A. The overarching flaw in the Company's capital spending and plant retirements proposals is the lack of transparent, objective, and comprehensive cost-effectiveness evaluation—the proposals are not adequately justified. Therefore, I recommend that:

- The Commission should deny the proposal to construct the four combustion turbine units (Crist 4x0 CT – 938 MW) and require a full cost-effectiveness analysis, including evaluation of non-fossil and non-generation alternatives, including non-utility alternatives.
- The Commission should deny the proposal to construct the NFRC transmission project and require a full cost-effectiveness analysis, including evaluation of non-wires and non-utility solutions that can avoid or delay the need for the capacity provided by the project.
- The Commission should deny the proposals for upgrades and conversions of existing plants Lansing Smith and Crist (among others) and require a full
- cost-effectiveness analysis, including evaluation of non-fossil and non-generation alternatives, including non-utility alternatives.
- The Commission should deny the proposal to implement the hydrogen project.
- The Commission should deny the proposal to approve regulatory asset treatment for remaining book balances on retired generation and require the Company to conduct full cost-effectiveness evaluation for each proposed

retirement and to demonstrate that it is fair, just, and reasonable to charge customers the full cost of facilities that are no longer used and useful.

- The Commission should deny the Company proposal to extend the amortization periods for nuclear, combined cycle, solar, and other assets and the proposal to continue the RSAM process for manipulating depreciation expenses and earnings.

IV. EFFICIENT ENERGY USE AND THE COMMERCIAL/INDUSTRIAL DEMAND REDUCTION ("CDR") PROGRAM AND COMMERCIAL/INDUSTRIAL LOAD CONTROL ("CILC") PROGRAM COMPENSATION

Q. What is the Company proposing regarding the compensation rates for load reductions achieved through the CDR and CILC programs?

A. The Company, through its witness Steven R. Sim, is proposing a 33% reduction in the compensation rate paid to commercial and industrial customers for making load available for interruption or reduction to reduce system demand.[36] While the witness provides charts and tables and many words of testimony, the bottom line is that the Company unnecessarily proposes to undercut a cost-effective and valuable demand response program based on the false premise that a ratepayer impact measure ("RIM") analysis provides any information about program cost-effectiveness at the current compensation level.

Q. Why do you say that the proposed compensation reduction is unreasonable?

A. The problems with the specific proposal to reduce CDR and CILC compensation levels are several. First, Company witness Sim inaccurately asserts that the RIM analysis is a cost-effectiveness evaluation. It is not. In fact, even under a RIM approach, the compensation level could be set at $8.45—only slightly lower than the current level—and still pass.[37] Second, Mr. Sim incorrectly asserts that the Total

Resource Cost test, under which the cost-effectiveness of the CDR program is an astounding 49.36, does not account for utility costs.[38] It does.[39] Third, the Company proposal will therefore likely reduce current and future participation in the demand response programs and result in the need for more expensive peaking resources like the four combustion turbines the Company proposes to add in 2022 without the benefit of full evaluation of demand response alternatives. As pointed out by Mr. Sim, the CDR and CILC programs have summer peak load capacity value of 814 MW,[40] while the benefit of integrating the FPL and Gulf Power service territories involving expensive construction of the NFRC is only one-fourth as great, or 200 MW of summer peak, out the year 2050.[41] Fourth, the Company proposal marks another disappointing chapter in the Company's war on cost-effective energy efficiency program development and implementation.

Q. What do you recommend regarding the compensation rate for the CDR and CILC programs?

A. The Commission should deny the Company proposal to reduce the compensation rate for the CDR and CILC programs and order the Company to aggressively pursue program enrollment growth.

Q. How has the Company performed in developing and delivering energy efficiency in Florida?

A. Thanks in large part to the flawed and unreasonable approaches to utilization of the energy efficiency resource in Florida advanced by the Company, Florida now stands in a below-average position in energy efficiency among all the states. The national expert organization American Council for an Energy-Efficient Economy ("ACEEE") issued a report in January 2021 that characterizes Florida's energy efficiency performance as "Unrealized Potential,"[42] and notes that the state of Florida has fallen

to 27th place in the nation in energy efficiency performance as of 2020. Indeed, among 52 of the nation's largest electric investor-owned utilities, the Company ranks 51st. Given the energy efficiency opportunities that the Company has chosen to ignore and disserve in reducing system costs and reducing or avoiding costly generation and infrastructure spending, these facts stand as clear rebuttal to the Company's assertion that it deserves a 50 basis-point increase in its allowed ROE based on performance. More importantly, by ignoring and underperforming in energy efficiency, the Company is increasing rates, bills, and energy burdens for all its customers.

Q. What are the major problems with the Company's approach to energy efficiency in general?

A. In addition to the ill-conceived proposal to slash the compensation rates for the CDR and CILC programs, the Company has failed to realize the potential of energy efficiency in several other ways as well. The small number of energy efficiency programs offered to residential customers is about one-third the national average and means that the Company does not have a range of efficiency options available to its customers,[43] and while Florida utilities do offer specific income-qualified energy efficiency programs, there is no mandated level of spending and savings.[44] Large percentages of Florida households are energy burdened, some severely so, and average burdens are higher for customers that are Black, Latinx, and elderly.[45] The ACEEE white paper on Florida's energy efficiency performance points to the flaws inherent in the state being the only state that still relies primarily on RIM analysis to screen efficiency programs, applies an arbitrary two-year payback screen to eliminate the most cost-effective measures, and continues the counter-productive practice of treating all energy savings as lost revenues.[46] Fortunately, these problems can be fixed with leadership by the Company. Indeed, there may even be an opportunity for

the Company to earn an increased ROE and generate savings for all customers through aggressive pursuit of cost-effective energy efficiency.

Q. What do you recommend that the Commission do regarding the Company's proposal to reduce compensation rates for CDR and CILC programs and the Company's general approach to energy efficiency?

A. The Commission should deny the Company's CDR and CILC compensation reduction proposal. In addition, only when FPL becomes an efficiency leader, not one of the worst energy efficiency performers in the nation, will it be appropriate to consider performance incentives. It is no coincidence that FPL employs so little energy efficiency that despite low rates, FPL customers currently have higher-than-average electric bills, and even higher still if FPL's proposed rate increase is approved.

V. PROPOSAL TO REQUIRE CUSTOMERS TO PAY FOR EEI'S POLITICAL SPEECH THROUGH RATES

Q. Does the Company seek to charge customers for EEI dues through rates?

A. Yes. The Company proposes to charge customers nearly $2.8 million dollars per year for dues the Company pays for membership in EEI.[47]

Q. Why is that an issue of concern?

A. EEI is the nation's largest investor-owned utility trade association and a highly political organization that directly and indirectly conducts and funds a wide range of policy and political activities across the U.S.[48] By requiring customers to pay for its membership in EEI, the Company is forcing customers to fund those political and policy activities as a condition of electric service whether they agree with the positions taken by EEI or not. If the Commission were to approve the proposed rates including the dues payment, it would be infringing on customers' rights to speak on

such policy issues as they choose.

Q. EEI does conduct some activities that are not related to policy or political advocacy. How can the Commission know what use is made of dues the Company pays to EEI?

A. It cannot, and neither can customers. The Company provides no evidence in the record as to how EEI dues are used and whether the dues support funding activities that provide benefits to the Company's customers.

Q. Doesn't the Company remove lobbying expenses from the amount proposed for recovery?

A. The Company asserts that it has removed lobbying expenses from the total amount of dues charged,[49] but this does not fully address the forced speech issue. EEI uses dues to conduct political and policy advocacy work that is not strictly classified as lobbying and it also funds other organizations that do the same.

Q. What is the remedy for the fact that dues paid by the Company to EEI are used to conduct policy and political advocacy?

A. The Commission should deny the Company proposal to recover EEI dues from customers absent an evidentiary showing that the dues are entirely used to advance the interests of customers and do not involve any form of political or policy speech.

Q. Does that conclude your testimony?

A. Yes.

(Proceedings concluded.)

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 4th day of October, 2021.

DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024