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VIA OVERNIGHT MAIL

April 10, 1997

Blanca S. Bayo, Director
Florida Public Service Commission
Division of Records & Recording
2540 Shumard Oak Blvd. - Room 110
Tallahassee, FL 32399

Re: Docket No. 970410-EI
Proposal to Extend Plan for the Recording of Certain Expenses for the
Years 1998 and 1999 for Florida Power & Light Company

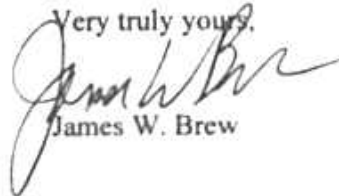
Dear Ms. Bayo:

Enclosed please find for filing with the Public Service Commission the original and fifteen copies of the Petition of AmeriSteel Corporation for Leave to Intervene and Objection to Proposed Agency Action.

Please note that the Proposed Agency Action is set for the agenda conference to be held on Monday, April 14, 1997.

Thank you for your assistance in filing the above. Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,



James W. Brew

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Enclosures
cc: Service List

DOCUMENT NUMBER - DATE

03707 APR 11 5

FPSC-RECORDS/REPORTING

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

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Proposal to Extend Plan for the)
Recording of Certain Expenses for) Docket No. 970410-EI
The Years 1998 and 1999 for Florida)
Power & Light Company)

**PETITION OF AMERISTEL CORPORATION
FOR LEAVE TO INTERVENE AND OBJECTION TO
PROPOSED AGENCY ACTION**

AmeriSteel Corporation ("AmeriSteel") hereby moves for leave to intervene in the above-captioned docket. AmeriSteel objects to the entry of a Proposed Agency Action ("PAA") by the Florida Public Service Commission ("Commission") and requests that hearings be held concerning the pending Commission Staff proposal before the Commission to approve an extension, with modifications, of the program authorizing Florida Power & Light Company ("FPL") to record additional expenses for the years 1998 and 1999. In support of this motion, AmeriSteel states as follows:

1. The name and address of petitioner is as follows:
AmeriSteel Corporation
5100 West Lemon Street
Suite 312
Tampa, Florida 33609

Documents relating to this proceeding may be served on AmeriSteel by serving them on the following individuals:

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DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

I. BACKGROUND

A. FPL's 1995 "Stranded Investment" Proposal.

2. On March 31, 1995, FPL petitioned the Commission in Docket No. 950359-EI for authorization to accelerate the amortization of its nuclear powered generation units (the "Stranded Investment Docket"). FPL sought a permanent \$30 additional amortization; and, for the years 1995 and 1996, an additional amortization equal to, a) 100% of FPL's base rate revenues produced by retail sales between FPL's "low band" and "most likely" sales forecasts for those years, and, b) 50% of base rate revenues from retail sales above the "most likely" forecast.¹ FPL asserted in its petition in that docket that changes in the electric utility industry structure were creating greater potential for "stranded investment" as it becomes increasingly more deregulated and possible for alternative suppliers to serve electric utility customers.²

3. Hearings were scheduled in the Stranded Investment Docket, but FPL reached a settlement with the Commission Staff before any testimony was heard.³ The Commission approved the proposed settlement in Order No. PSC-96-0461-FOF-EI (dated April 2, 1996). The approval order directed FPL to:

- apply \$126 million in additional 1995 depreciation expense to the reserve deficiency in nuclear production;

¹ Docket No. 950359-EI, *Petition to Establish an Amortization Schedule for Florida Power & Light Company's Nuclear Generating Units to Address the Potential for Stranded Investment*

² March 31, 1995 Petition at p.3. FPL did not suggest in its petition that any of its four nuclear units might be retired for economic reasons before the expiration of their operating licenses, but maintained that accelerated recovery of the capital costs of these units was needed.

³ AmeriSteel intervened as a party in the Stranded Investment Docket. The Commission found AmeriSteel had standing to participate as a party over FPL's objections. Order No. PSC-95-1035-PCO-EI. AmeriSteel subsequently withdrew as a party from the proceeding and did not participate in the settlement reached between FPL and the Commission Staff.

- record an additional \$30 million annually in nuclear amortization;
- record additional expenses in the years 1996 and 1997 based on growth in base rate revenues as FPL proposed but charged to various nuclear and non-nuclear accounts in accordance with the FPL/Staff settlement recommendation.

Pursuant to this Order, FPL booked approximately \$160 million in additional charges and amortization in 1996 in addition to the charges taken in 1995.

B. The FPL/Staff Proposed Extension Of The "Added Expense Plan".

4. At some time earlier this year, the Commission Staff, FPL and the Office of the Public Counsel met to discuss a "continuation of the Plan" approved in the stranded investment docket. Representatives of AmeriSteel were advised of the informal discussions to extend the Plan through the years 1998 and 1999, and AmeriSteel requested a meeting with the Commission Staff on this matter. The Staff gave public notice of this meeting, which was held on March 19, 1997, and attended by representatives of AmeriSteel, FPL and the Commission Staff. At the meeting, Staff briefed AmeriSteel on the plan to extend the program for two more years, the FPL accounts involved and Staff's outlook. AmeriSteel did not have an opportunity to participate in any sense in the negotiations between Staff and FPL. AmeriSteel, however, made its objections to this accounting scheme clear to Staff.

5. On April 2, 1997, after completing its discussions with FPL, Staff filed a recommendation that the Commission vote at its April 14, 1997 agenda conference to extend the Plan through the years 1998 and 1999. This docket was initiated by the Staff; FPL did not file a petition or other written request to extend this special accounting

treatment. The recommendation proposes to continue using the 1996 base revenue forecasts submitted in Docket No. 950359-EI. Using those forecasts and FPL's projected annual sales growth rate of 2.4%, FPL will be authorized by this Plan to take over \$200 million per year in added charges in 1998 and 1999. Over the period 1995-1999, FPL will take more than \$900 million in "added" expenses to offset revenue growth.

II. AmeriSteel Has A Substantial Interest That Will Be Directly Affected By The Outcome Of The Commission's Determination In This Proceeding

6. AmeriSteel operates a steel recycling and manufacturing facility that is located in Jacksonville, Florida. The Jacksonville plant uses an electric arc furnace to melt scrap steel and casts the resulting molten steel into long strands (billets) in a continuous casting process. The plant produces rebar and rods that are used in a variety of highway, building construction and other applications. AmeriSteel sells these products in highly competitive commodity markets.

7. FPL provides electric service to the Jacksonville mill, and the cost of electricity is a major factor in the operating economics of the steel mill. The rates charged by FPL to AmeriSteel are very high compared to electricity rates charged by utilities at AmeriSteel's steel mills in Tennessee and North Carolina as well as the rates paid by many of its competitors. In a nutshell, AmeriSteel requires competitively priced electricity from FPL in order for the Jacksonville mill to be able to compete with AmeriSteel's regional, national and international rivals.

8. As a result of the rate of return on equity cap established for FPL by the Commission, FPL customers have a profit sharing relationship with FPL. The charges collected by FPL from its retail customers can be reduced through Commission ordered

refunds if FPL's profits exceed the range the Commission has specified. FPL's return on equity target is 12%, with a 100 basis point band, and FPL's customers have a vested interest in FPL profits above the designated range. As FPL's largest customer, AmeriSteel has a significant interest in ensuring that FPL does not take unnecessary or unwarranted charges that would serve to prevent FPL from reaching the earnings sharing threshold and providing refunds to existing customers. The FPL/Staff proposal to extend the "Added Expense Plan" described in this docket creates a huge amount of additional charges to offset revenue and earnings growth in the years 1998 and 1999. But for those charges, customers, including AmeriSteel, should expect refunds as FPL exceeds the profit sharing threshold.

III. Extension Of "The Added Expense Plan" Through The Year 2000 Is Not In The Public Interest

9. In 1995, FPL at least argued that the extraordinary process of significantly adding to FPL's expenses outside a base rate case was justified by its forebodings of potential stranded investment. The company, however, expressly confined its request for additional amortization to two years (1995 and 1996). In this docket, FPL did not formally renew its request for additional amortization, and no justification of any kind has been offered for allowing FPL to take \$200 million or more per year in "added" or special charges to offset FPL's revenue growth.

10. Staff's recommendation to modify and extend the Plan does not even attempt to explain why Staff believes an extension of this extraordinary process is in the public interest. The Staff proposal is geared primarily toward increased funding to correct theoretical reserve deficiencies, but, if that is the intent, Staff must justify the creation of

expenses to offset significant FPL revenue increases outside the context of a general rate case. Further, Staff's demand in its recommendations for comprehensive nuclear decommissioning and fossil dismantlement studies demonstrates that the factual foundation for the claimed reserve deficiencies is lacking. Finally, Staff's recommendation that any "extra" expense dollars from this Plan should be assigned to an unspecified depreciation account has no basis whatsoever.

11. As noted below, the extension of this program proposed by Staff differs from the original plan approved by the Commission in several significant respects that create substantial benefits for FPL investors at the expense of the company's existing customers.

A. Staff Proposes To Employ Stale, Understated Revenue Forecasts.

12. Staff proposes to tie the level of additional charges in 1998 and 1999 to FPL's 1996 base rate revenue sales forecast. The Company's actual 1996 base rate revenues, however, exceeded the 1996 "most likely" forecast by \$43.9 million,⁴ and FPL projects steady sales growth through the year 2000. Because FPL takes 100% of the \$83 million difference between the "low" and "most likely" 1996 forecasts, and the company should continue to exceed the 1996 "most likely" revenue forecasts in subsequent years, using the outdated forecast will allow FPL to retain \$200 million or more per year in 1998 and 1999. At a minimum, hearings are required on the revenue targets that should be employed for 1998 and 1999 if the Plan is extended to those years.

⁴ FPL's "most likely" 1996 forecasted revenues were \$3,224,100,000. FPL reported actual base rate revenues of \$3,268,000,000.

B. The Scope Of The "Added Expense Plan" Program Is Excessive.

13. According to FPL's estimates in the stranded investment docket, additional expenses charged under the Plan in 1995 and 1996 would be less than \$200 million in total. The company, however, actually booked significantly more charges in those years (nearly \$270 million). If Staff's recommendation is approved, FPL will end up charging over \$900 million in "added expenses" through the year 2000. Staff's recommendation thus expands this program of special charges well beyond the scope of FPL's request in the Stranded Investment Docket. Charges of this magnitude require a general review of FPL's rates and revenue requirement.

C. FPL And Staff Have Not Justified Charging Additional Expenses To Other FPL's Accounts.

14. FPL and Staff propose to target additional charges for nuclear decommissioning and fossil dismantlement when the information necessary to address the merits of this proposal on these matters will not be filed for Staff review until late 1998 at the earliest. In 1995, FPL increased its annual funding of the decommissioning reserve from \$38 million to \$85 million. FPL is required to produce an updated decommissioning study in late 1998. Hearings are needed to address whether any increased funding of decommissioning is warranted before a full and public assessment of that 1998 study is performed.

15. Similarly, Staff's recommendation demands a comprehensive study of fossil dismantlement costs by October 1998, but Staff nonetheless contemplates additional charges to that reserve. Staff's demand for this study demonstrates that it lacks a

reasonable basis for agreeing to any additional funding of this reserve at this time.⁵

These are issues properly addressed in a general rate case, and hearings are needed to test the company's assumptions and proposed funding of the reserves once the detailed studies are submitted.

D. The Staff Recommendation Fails To Address The Effect Of The Proposed Plan Extension On FPL Customers.

16. If the "Added Expense Plan" were not extended, the depressing effect of these added charges on FPL's reported earnings would be lifted, thereby raising the prospect of refunds to customers of excess FPL profits. As noted above, the existing base rate plan ordered by the Commission provides for amounts collected by FPL from its customers to be reduced through profit sharing with those customers once the upper bound of the established range return on equity is exceeded. If, without these added charges, FPL's customers would be eligible for substantial refunds, back filling expenses to avoid reaching the profit sharing-based threshold effectively constitutes a change in rates. Florida Statutes §§ 366.06 and 366.07 require that changes in rates or the amounts collected by electric utilities can only be changed after a public hearing. The FPL/Staff proposal does not address the effect of its recommendation on potential profit sharing refunds to customers. Thus, the recommended Plan extension appears to violate the statutory hearing requirement.

⁵ Moreover, according to its Ten Year Site Plans, FPL currently does not actually plan to dismantle any of its existing generating units.

E. There Is No Demonstrated Need To Extend "The Added Expense Plan."

17. FPL's stranded investment petition sought Commission approval for extraordinary accounting treatment for its nuclear plant. FPL confined its requests in its original petition to two years for additional amortizations above the \$30 million for nuclear plant.⁵ The company has not formally requested an extension, and actual events during 1995 and 1996 show that there is no basis for continuing this Plan. FPL's actual base rate revenues significantly exceeded FPL's "most likely" forecasts for those two years, and FPL continues to forecast strong growth in sales, earnings, cash flow, and customer accounts – except for industrial accounts, which continue to decline.

18. Since the Commission issued its approval Order in Docket No. 950359-EI, the Commission has approved flexible pricing programs to allow utilities and municipalities greater pricing discretion to address the needs of customers considered to be "at risk", i.e., likely to close down or pursue competitive alternatives.⁷ FPL has indicated that it does not consider competitive pricing programs to be necessary for the customers it serves, thus confirming industry analysts' views that FPL faces little competitive risk.

19. In fact, FPL's robust financial outlook confirms the industry-wide perception that FPL holds a strong competitive position. Under the current "Added Expense Plan," FPL has maintained reported earnings within the range set by the Commission. By continuing to use the stale and significantly understated 1996 revenue forecasts, FPL would be allowed to generate huge non-cash expenses to ensure that it will not experience reported

⁵ Petition in Docket No. 9503590-EI, pp. 10-11.

⁷ *In re. Petition for Authority to Implement Proposed commercial/Industrial Service Rider on Pilot/Experimental Basis by Gulf Power Company*, Order No. PSC-96-1219-FOF-EI, issued September 24, 1996.

excess profits through the year 2000. The added charges will be funded by FPL customers to the extent that those charges avoid excess profits that should be refunded. In short, in this docket, FPL and the Staff are playing with large amounts of "House" (i.e., customer) money.

20. FPL needs to provide a clear justification for diverting \$400 million in possible excess profits/customer refunds in 1998 and 1999. It has not offered any. In fact, it has not even formally requested an extension of the plan. The Staff proposal seeks to revise the revenue requirement for FPL set by the Commission in 1984¹ on a piecemeal basis, without hearing or justification. Staff has not attempted to show that extending this program is remotely in the interests of FPL's customers.

IV. CONCLUSION

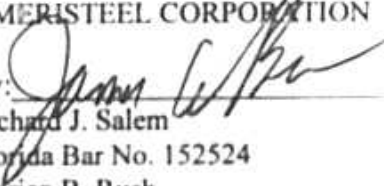
21. If the "Added Expense Plan" extension is approved as Staff proposes, FPL would be allowed to take up to \$900 million in added non-cash expenses during the years 1995-1999. Most or all of those revenues should be applied to the benefit of existing customers. Today's customers are entitled to a share of FPL's earnings above the established return on equity cap. The Staff/FPL Plan would, unreasonably and without a word of justification, reduce FPL's reported earnings in such large amounts that it would deny customers benefits to which they are entitled. As a result, the Staff recommendation would constitute a major change in rates without hearings or any of the consumer protection safeguards provided by Florida statute and the Florida Administrative Code.

¹ *In re. Petition of Florida Power & Light Company for an increase in its rates and charges*, Docket No. 830465-EI, 84 FPSC 136 (July 24, 1984).

22. AmeriSteel requests that the Commission grant AmeriSteel's Petition to Intervene, deny the Proposed Agency Action and initiate a full docket, including discovery and a hearing in this matter.

Respectfully submitted,

AMERISTEEL CORPORATION

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CERTIFICATE OF SERVICE
(PSC DOCKET NO. 970410-EI)

I HEREBY CERTIFY that a true and correct copy of Petition of AmeriSteel Corporation For Leave To Intervene And Objection To Proposed Agency Action has been furnished via overnight mail and facsimile on the 10th day of April 1997, to the following:

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