State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: MARCH 15, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF AUDITING AND FINANCIAL ANALYSIS (SLEMKEWICZ, D. DRAPER, LEE, LESTER, MAILHOT, MAUREY, DEVLIN, SALAK)
DIVISION OF ELECTRIC AND GAS (BREMAN, TEW, WHEELER)
DIVISION OF LEGAL SERVICES (ELIAS)

RE: DOCKET NO. 990067-EI - PETITION BY THE CITIZENS OF THE STATE OF FLORIDA FOR A FULL REVENUE REQUIREMENTS RATE CASE FOR FLORIDA POWER & LIGHT COMPANY.

AGENDA: 03/16/99 - REGULAR AGENDA - DECISION ON STIPULATION PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\AFA\WP\990067.RCM

CASE BACKGROUND

On January 20, 1999, the Office of Public Counsel (OPC) filed a Petition to "have the Florida Public Service Commission conduct a full revenue requirements rate case and establish reasonable rates and charges for FPL."

On March 10, 1999, the parties filed a Joint Motion for Approval of Stipulation and Settlement together with the Stipulation and Settlement (Stipulation) in the above-referenced docket that resolves the issues raised. This recommendation addresses the Stipulation and Settlement agreed upon by the parties.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the Stipulation entered into by Florida Power & Light Company (FPL), OPC, the Florida Industrial Power User Group (FIPUG), and the Coalition for Equitable Rates (the Coalition). (Attachment)

PRIMARY RECOMMENDATION: Yes. The Stipulation should be approved. (DEVLIN)

ALTERNATIVE RECOMMENDATION: No, the stipulation should not be approved. (SALAK, MAUREY, ELIAS)

PRIMARY STAFF ANALYSIS: Because of time constraints, staff did not prepare an analysis by paragraph. Instead, we have concentrated our efforts in areas that we believe need clarification and/or specific attention by the Commission.

The main reason Primary Staff recommends approval of the Stipulation is that it results in immediate and significant savings to all of FPL's ratepayers. We recognize that, at the conclusion of a full rate case, a greater rate reduction is possible. However, that would be after eight to twelve months.

In addition to the $350 million rate reduction, there is potential for further credits under the revenue sharing plan. For instance, ratepayers will be credited in the first 12 month period for two thirds of the revenue in excess of $3.4 billion. FPL's revenue for calender year 1998 was approximately $3.75 billion and therefore, the rate reduction places FPL at about where sharing begins. Any growth in revenue will benefit ratepayers. Historically, FPL's revenue has grown at about 3% a year. Absent unusual weather, it does not appear there will be any additional credits for the first year. It is more likely there will be some credits for the second and third years of the plan.

Another benefit of the plan are the caps on the environmental cost recovery clause (ECRC or the clause). This area is addressed later in the recommendation but these caps will directly benefit ratepayers since the amounts flowing through the clause are decreased. For instance, in 1998, FPL recovered approximately $22.3 million through ECRC, and, in year 2000, ECRC will be limited to $12.8 million. In year 2001, the limit is $6.4 million, and, in year 2002, no amounts can be flowed through the clause.

Primary Staff recognizes that the Stipulation will, probably result in a higher Return on Equity (ROE) for FPL, than achieved over the last five years. For the first year, we calculate that the Stipulation will result in an achieved ROE of 13.3% assuming FPL does not opt to record any "amortization amount". We expect FPL to exercise its option to amortize some amount in order to meet internal corporate goals such as a targeted level of growth in earnings. We expect to see ROEs in the upper 12% range during this plan which is excessive but does not overshadow the significant up front ratepayer benefits. In addition, the Commission maintains its authority to review FPL's earnings during the period of the Stipulation.

The following are areas that we believe need clarification and/or specific attention by the Commission. We have numbered our analyses to correspond with the section numbers in the Stipulation.

2. **Expense Plan**

The first sentence of section 2 of the Stipulation requires that the plan approved by the Commission in Docket Nos. 950359-EI and 970410-EI continue until the day before the Implementation Date. The plan approved by the Commission was set up on a calendar year basis. Staff has no objection to ending the plan on the day before the Implementation Date. However, the method for calculating the minimum required amount of expense to be recorded for the period from January 1, 1999 until the day before the Implementation Date remains to be resolved. (Mailhot)

Amortization

Section 2 of the Stipulation permits FPL to record an amortization amount of zero up to $100 million each year of the three-year term. The exact amount recorded is at the discretion of the company as long as it does not exceed $100 million annually. The amortization will be applied to reduce the nuclear and/or fossil production plant in service. Further, depreciation rates established in the future are prohibited from recognizing the effects of the amortization amounts.

Staff believes clarification is needed regarding how these amortization amounts will be recorded to reduce plant in service. From discussions with the company, it is staff's understanding that the intent is to reduce net plant in service rather than gross plant. To achieve a reduction in net plant (investment less accumulated reserve), it appears that the amortization amounts would be recorded in separate reserve accounts. This would serve

to increase the total fossil/nuclear account reserves which, in turn, will reduce net plant. However, these additional amortization amounts would not be included in the reserve component in the design of subsequent depreciation rates. The numerator of the remaining life rate formula is a measure of the net unrecovered plant at the time depreciation rates are implemented. The additional amortization amounts are not included in the numerator indicates that a greater amount of net plant remains to be recovered than is actually the case. The result is an overstated depreciation rate and resulting overstated depreciation expenses. In a word, this is accelerated depreciation. The potential end-point is that the design of depreciation rates, and the resultant rate base, will no longer reflect the matching principle, but rather, the degree of variability in the company's revenues. When depreciation rates are reset after the term of the Stipulation, failure to include the amortization in the rate calculations will result in continued accelerated depreciation. Yet, staff believes the Commission should not ignore the overall benefits of the Stipulation.

One of the basic axioms of depreciation is to match capital recovery with consumption. Staff is concerned with the concept of using economic conditions to adjust depreciation expenses which should properly be matched to service life. Previously, the Commission has approved faster write-offs of perceived reserve deficits, and of unrecovered net plant that are not life related; such actions were considered not to conflict with the matching principle.

The Stipulation essentially allows FPL the flexibility to shorten the recovery period of the fossil/nuclear plants. This is not the writing off of a perceived historical deficit, but simply accelerated depreciation, in conflict with the matching principle. Staff's concern is that each step made in this direction makes the next step easier. Further, the amortization will reduce the company's achieved earnings over the life of the Stipulation. (Lee)

3. **Allocation of Rate Reduction**

The Stipulation in section 3 specifies that the $350 million reduction in base rates will be implemented by reducing the non-fuel energy charge of each customer class by .42 cents per kilowatt hour (kWh). Consequently, the reduction is allocated among the rate classes based on their energy (kWh) consumption. This will result in a $4.25 reduction in the monthly bill for a residential customer who uses 1,000 kWh, from $75.54 to $71.29.

The proposed reduction based on energy usage differs from the method used to allocate most costs at the time FPL's base rates were determined. The bulk of the costs recovered through base rates are fixed costs which do not vary with the level of kilowatt hours (kWh) generated. As a consequence, in a rate case, most base rate costs are allocated to the rate classes on a demand, rather than an energy, basis. The bulk of FPL's fixed production and transmission plant costs were allocated based on each class's estimated contribution to the 12 monthly maximum system peaks. This method, known as the 12 Coincident Peak and 1/13 Average Demand (12 CP and 1/13 AD) method, was used to allocate most fixed production and transmission costs for each of the four major investor-owned utilities in their last full requirements rate cases.

By reducing rates on a kWh basis, high load factor classes (i.e. those whose energy use is high relative to their peak demand), such as large commercial and industrial classes, receive a proportionately larger share of the reduction than they would had the reduction been allocated in a manner similar to that used in a rate case. Conversely, lower load factor classes, such as residential and small commercial classes, receive a smaller share of the reduction.

For illustrative purposes, staff has estimated the impact on residential customers of allocating the entire $350 million reduction on a 12 CP and 1/13 AD basis, in lieu of the proposed energy basis. For the purposes of the calculation, staff has used the projected kWh sales for the period January through December, 1999. This projection was used to establish FPL's currently effective rates for the fuel and other adjustment clauses. In addition, staff has used FPL's 1997 load research estimates of the class contributions to peak demand. Based on this data, the residential customers would receive a .463 cent per kWh reduction in their non-fuel energy charge, as compared to the .420 reduction proposed. The demand allocation would result in a reduction of $4.68 on the monthly 1,000 kWh bill, a $.43 larger reduction than under the energy allocation.

Staff believes that the use of a demand allocator more closely reflects how the reduction would be distributed in a full requirements rate case. (Wheeler)

4. **Achieved Return on Equity**

In section 4, the Stipulation states:

> . . FPL's authorized return on equity range on a prospective basis will be 10.00% to 12.00% with a midpoint of 11.00% for all regulatory purposes; it being understood that during the term of this Stipulation and Settlement **the achieved return on equity may, from time to time, be outside the authorized range** and the sharing mechanism herein described is intended to be the appropriate and **exclusive** mechanism to address that circumstance. (Emphasis added.)

In Florida, the traditional use of the authorized return on equity (ROE) is to compare a utility's achieved return to its authorized return. If a utility earns above the top of the range of its authorized return, then it is overearning. The overearnings can be quantified in dollars using the top of the range of the authorized ROE. The Commission then disposes of the overearnings through rate reductions, offsets with regulatory assets, or another way.

This Stipulation will cause the Commission to alter its traditional viewpoint concerning ROE and excess earnings. With the Stipulation, the revenue sharing mechanism is the sole methodology for addressing excess earnings, i.e., earnings above the top of the authorized range. In section 6, the basics of the sharing mechanism are presented as follows:

> During the term of this Stipulation and Settlement revenues which are above the levels stated herein will be shared between FPL and its retail electric utility customers--it being expressly understood and agreed that **the mechanism for earnings sharing herein established is not intended to be a vehicle for "rate case" type inquiry concerning expenses, investment and financial results of operations.** For the first 12 months beginning with the Implementation Date, FPL's retail base rate revenues in excess of $3.400 billion up to $3.556 billion will be shared between FPL and its customers on a one-third/two-thirds basis, one-third to be retained by FPL and two-thirds to be refunded to its customers. (Emphasis added.)

With the above sharing mechanism, FPL could earn above to top of its authorized range for ROE, 12.00%, if its revenues are below $3.400 billion. Therefore, this Stipulation requires the Commission to make a fundamental change in its traditional rate base and rate of return regulation. The Stipulation is essentially based on revenues, not earnings.

The Commission has approved sharing plans before. In Docket No. 880069-TL, the Commission approved a rate stabilization plan for Southern Bell. This plan had a sharing mechanism in which revenues were shared between customers and shareholders from the point at which earnings exceeded the top of the range for ROE. The proposed Stipulation presented by FPL, OPC, et al, **could** allow earnings to exceed the authorized ROE and be retained entirely by shareholders. This will depend on FPL's revenues and how those revenues are measured. (Lester)

The Commission has considered the impact of a stipulation on its jurisdiction in Order No. PSC-94-0172-FOF-TI, issued February 11, 1994, in Docket No. 920260-TL. In part, the Commission stated:

> The text of the Settlement contains numerous references that purport to require us to act, to refrain from acting, or to otherwise restrict our actions in some manner, or seek action for which we have no authority. Generally, such attempts to bind us to a specified future course of action by adoption of the Settlement must fail as a matter of law. See, e.g., United Telephone Company v. Public Service Commission, 496 So.2d 116, 118 (Fla. 1986), (parties to a contract cannot confer jurisdiction). Similarly, parties cannot by contract or agreement limit or require our exercise of jurisdiction.
>
> It is our statutory responsibility to ensure that Southern Bell's rates, charges, and practices are fair, just, and reasonable. See Sections 364.01(2), 364.03, and 364.14, Florida Statutes. The terms of a contract for the rendering of a service of a public nature are subject to governmental authority. State ex rel Ellis v. Tampa Waterworks Co., 48 So. 639 (Fla. 1909).
>
> When we approve a stipulation between parties, the provisions of the stipulation become part of our order. However, we cannot, by our own order, require or preclude a future Commission from carrying out its mandate. This is analogous to the principle that in adopting legislation, the legislature is not bound by actions of prior legislatures nor can it bind future legislatures.
>
> The question of the Commission being precluded from acting was last addressed in Docket No. 880069-TL. There, Southern Bell argued that, in approving the parameters of the Plan, we committed to leave the Plan as is, absent some precipitous change in circumstances. Several parties had argued that, because the cost of equity capital had fallen, certain amounts of revenue

> should be held subject to refund, pending the outcome of the upcoming rate case. We concluded that regardless of the Plan's silence on whether it could be modified due to changes solely in the cost of equity capital and regardless of our prior approval of the Plan, we were not precluded from acting, if the public interest so required. See Order No. PSC-92-0524-FOF-TL, issued June 18, 1992.
>
> The Commission, even if it so desired, cannot be bound to a specific course of action through the approval of a stipulation. As we stated in Docket No. 890216-TL:
>
> [W]e do not possess the legal capacity of a private party to enter into contracts covering our statutory duties. Indeed, we cannot abrogate -- by contract or otherwise -- our authority to assure that our mandate from the Legislature is carried out. As a result, we may not bind the Commission to take or forego action in derogation of our statutory obligations.

See Order No. 22352, issued December 29, 1989.

> The parties are without authority to confer or preclude our exercise of jurisdiction by agreement. In our view, any such provisions in the Settlement are not fatal flaws; they are simply unenforceable against the Commission and are void ab initio. The parties cannot give away or obtain that for which they have no authority. We note that, consistent with our discussion above, the parties commented during our agenda conference that there was no intent to restrict in any fashion the Commission's responsibility or legal authority.
>
> While it is clear that we cannot be precluded from carrying out our statutory mandate by approving this Stipulation, we also understand that should we find it necessary in the future to alter the regulatory provisions we are now approving, such changes could be the basis for a party to the Settlement to abrogate the prospective portions of the agreement.

Order No. PSC-94-0172-FOF-EI at pages 5, 6.

The situation addressed by the Commission in Order No. 940172 is analogous to that confronting the Commission in this docket. The stipulation binds the parties, and not the Commission. The Commission remains able to utilize during the term of the agreement, all powers explicitly and impliedly granted by Chapter 366, Florida Statutes. This includes the ability to determine that

the rates charged by FPL are no longer fair, just, and reasonable, and to change those rates. This also includes the ability to order an interim change in rates. Given that this stipulation does not limit the Commission's ability to exercise its jurisdiction to the fullest extent, and does not violate any specific provision of Chapter 366, it is consistent with the requirements of Chapter 366. (Elias)

6. **Sharing**

Section 6 of the Stipulation requires the sharing of FPL's retail base rate revenues in excess of a certain amount each year of the plan. It is staff's understanding that the retail base rate revenues are those revenues reported on the Earnings Surveillance Report as FPSC Adjusted, which was $3,757,273,247 for 1998. (Mailhot)

Capital Structure Treatment of Deferred Customer Refunds

The Stipulation does not address whether the company should include the deferred customer refunds in the capital structure. Staff believes the appropriate treatment of the deferred customer refunds should be reported in the capital structure, as a separate line item, and include the principle and interest with a cost rate at the 30-day commercial paper rate as specified in Rule 25-6.109, Florida Administrative Code. This is similar to the treatment of deferred revenues that staff is recommending for item number 9 on the March 16 agenda, Docket No. 980379-EI, Tampa Electric Company. (D. Draper)

7. **Environmental Cost Recovery Clause (ECRC)**

Section 7 of the proposed stipulation states in part that "FPL's recovery of costs through the environmental cost recovery docket will be phased out over a three-year period beginning January 1, 2000." FPL has clarified that the "phase out" is temporary. FPL will continue to petition for cost recovery both during and after the three-year period; however, the amount recovered through the clause will be the lesser of actual costs or a capped amount each year of the stipulation period. The lesser of actual costs or the capped amounts will be the basis for calculating FPL's environmental cost recovery factors for the years 2000, 2001, and 2002. Therefore, the charge per kilowatt hour for environmental compliance costs will be significantly reduced throughout the stipulation period. The terms of the proposed stipulation with respect to the ECRC are summarized in the following table:

ECRC Hearing	Set Factors for Projection Period	Recovery Cap
Fall 1999	Calendar Year 2000	$12.8 M
Fall 2000	Calendar Year 2001	$ 6.4 M
Fall 2001	Calendar Year 2002	$ 0
Fall 2002	Calendar Year 2003	No stipulation cap

In the Fall 2001 ECRC hearing, the Commission will determine whether the new environmental compliance projects proposed for 2002 are appropriate for recovery through the ECRC. According to the proposed stipulation, FPL's ratepayers will not be billed in calendar year 2002 for any of these environmental compliance costs. However, FPL clarified that it may petition for recovery of the prudently incurred costs of the new projects which were both approved in the 2001 ECRC hearing and placed into service between the expiration date of the proposed stipulation and December 31, 2002. If such a petition by FPL were granted, recovery would begin in 2003. FPL maintains that no other true-up amounts will be carried forward for purposes of setting ECRC factors for 2003. As of January 1, 2003, the caps proposed by this stipulation will no longer be applicable, and FPL may once again be allowed to recover its prudently incurred environmental compliance costs through the environmental cost recovery factor as it had prior to the stipulation. Both during and after the stipulation period, FPL will continue to participate in the annual ECRC hearings and file the appropriate ECRC testimony and schedules. (Tew, Breman)

8. **Depreciation**

Section 8 of the Stipulation caps the annual nuclear decommissioning and fossil dismantlement accruals at their currently approved levels. In addition, the protests of Order No. PSC-99-0073-FOF-EI filed by FIPUG and the Coalition will be withdrawn and that Order will be made final. The depreciation rates addressed in that Order will not be increased during the term of the Stipulation.

Rule 25-6.0436, Florida Administrative Code, requires electric companies to file depreciation studies at least once every four years. FPL has, however, filed production plant studies more frequently in the past. The Stipulation will preclude such studies being filed over the three-year term.

Additionally, FPL's next depreciation study is required by Rule 25-6.0436, Florida Administrative Code, to be submitted no later than December 26, 2001. Even though the stipulation period will not end until April 15, 2002, staff believes this should not prevent the study filing as required. The Implementation Date for new depreciation rates, however, will not be prior to April 15, 2002, per the Stipulation.

As part of Order No. PSC-99-0073-FOF-EI, the allocation of the $90 million in nuclear amortization accumulated as provided by Order No. PSC-96-0461-FOF-EI was deferred until after a final decision in Docket No. 981390-EI, In Re: Investigation into the Equity Ratio and Return on Equity of Florida Power and Light Company. At the February 16, 1999 Agenda Conference, the Commission decided to close this docket and pursue these issues in the instant docket. Accordingly, the Stipulation does not address the disposition of the $90 million nuclear amortization. This issue will be addressed in Docket No. 990324-EI.

ALTERNATIVE STAFF ANALYSIS: It is hard to argue that a rate reduction in the magnitude of $350 million is not the appropriate course of action for the Commission to take. However, Alternate Staff believes that rate reductions and other issues can and should be resolved in the form of a full revenue requirements proceeding. To allow due process, the customers' rate reductions would be delayed; however, the Commission would have a complete evidentiary record upon which to determine the best long term interests of the ratepayers.

The last full rate case for FPL was in the mid-1980's. Significant changes have occurred since that time which should be recognized for resetting rates. Due to potential changes in the industry, this may be the last opportunity to fully scrutinize FPL. Alternate Staff believes that a thorough review of each company will aid any transition that may be necessary.

A full cost of service study needs to be submitted. As discussed in the Primary Analysis, the methodology for allocating the rate reduction proposed in the Stipulation is based upon energy which will favor the large commercial and industrial classes at the expense of the residential and small commercial classes. Further, as has been seen in the deregulation of the telecommunications industry, it is imperative to assign the appropriate costs to customers and services before any regulatory changes occur.

Under the Stipulation, staff estimates of the achieved return on equity indicate that FPL will earn over 12.0%, the top of the ROE range under the Stipulation, in 1999 and that the achieved

earnings will continue to grow over the three year period. As noted in the Primary Analysis, there is no cap on earnings under the Stipulation. This provision of the Stipulation makes ROE basically meaningless for surveillance purposes. In 1998, FPL's achieved earnings were 12.6% even with FPL recording $372 million of additional expenses under the Commission Plan. The rate reduction is less than the amount of additional expenses recorded in 1998. In a rate case, rates would be set at the midpoint. Under the Stipulation, the midpoint is 11.0%. Based upon an historic or prospective view of earnings, Alternate Staff believes that greater rate reductions would be likely if the Commission proceeded to a full revenue requirements proceeding. FPL has stated in its press release that a million dollars in rate case costs will be saved by the Stipulation. A million dollars is a little over a basis point for FPL, but could lead to significant savings for the ratepayers.

The reduced amounts recovered through ECRC has been stated as a reason to endorse the Stipulation. Alternate Staff submits that during a base rate proceeding, the amounts being recovered through this clause can be rolled into base rates as indicated by Section 366.8255, Florida Statutes. The ECRC items rolled into base rates will lead to a reduction in the ECRC factor for a longer period of time than the proposal in the Stipulation.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. Absent a timely appeal of the Commission's final order, no further Commission action will be required and the docket should be closed. (ELIAS)

STAFF ANALYSIS: The Stipulation has been signed by all of the official parties of record, namely the Office of Public Counsel, the Florida Industrial Power Users Group, The Coalition for Equitable Rates and Florida Power & Light Company. The Stipulation is offered "pursuant to and in accordance with Section 120.57(4), Florida Statutes. Section 120.57(4), Florida Statutes, provides that "...informal disposition may be made of any proceeding by stipulation, agreed settlement, or consent order." The Stipulation does not require further Commission action to implement the agreement. Therefore, the docket should be closed.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for a full revenue requirements rate case for Florida Power & Light Company	DOCKET NO. 990067-EI

STIPULATION AND SETTLEMENT

WHEREAS, the Office of Public Counsel of the State of Florida ("OPC") has petitioned the Florida Public Service Commission to initiate and conduct a full revenue requirements base rate proceeding for Florida Power & Light Company ("FPL"). In its Petition, the OPC, among other matters, alleges that, while long-term benefits for both FPL and its customers may have been achieved by the "Plans" approved by the Florida Public Service Commission in Dockets Nos. 950359-EI and 970410-EI, the time has now come for the customers to share in the benefits;

WHEREAS, The Florida Industrial Power Users Group ("FIPUG") and The Coalition For Equitable Rates ("Coalition")have petitioned for and been granted leave to intervene;

WHEREAS, a base rate proceeding can be costly, time consuming, lengthy and disruptive to efficient and appropriate management and regulatory efforts; and,

WHEREAS, the Parties to this Stipulation and Settlement have undertaken to resolve the matters raised in the Petition so as to

effect a current and prompt reduction in base rates charged customers and achieve a degree of stability to the base rates and charges;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. This Stipulation and Settlement will become effective on the day following the vote by the Florida Public Service Commission approving this Stipulation and Settlement which will be reflected in a final Order. The starting date for the three-year term of this Stipulation and Settlement will be 30 days following the vote and will be referred to as the "Implementation Date."

2. The continued amortization and booking of expenses and other cost recognition authorized and required by the Florida Public Service Commission in Dockets Nos. 950359-EI and 970410-EI will terminate on the day before the Implementation Date. Beginning on the Implementation Date, FPL is authorized to record an amortization amount of up to $100 million at the discretion of the Company per year for each twelve months of the term of this Stipulation and Settlement which shall be applied to reduce nuclear and/or fossil production plant in service. The amortization will be separate and apart from normal depreciation, and existing depreciation practices and resulting depreciation rates will not be adjusted, either before, during or after the term hereof to

eliminate the effect of the additional amortization amount recorded.

3. FPL will reduce its base rates by $350 million. The base rate reduction will be reflected on FPL's customer bills by reducing the base rate energy charge by .420 cents per kWh. FPL will begin applying the lower base rate energy charge required by this Stipulation and Settlement to meter readings made on and after the Implementation Date.

4. Effective on the Implementation Date, FPL's authorized return on equity range on a prospective basis will be 10.00% to 12.00% with a midpoint of 11.00% for all regulatory purposes; it being understood that during the term of this Stipulation and Settlement the achieved return on equity may, from time to time, be outside the authorized range and the sharing mechanism herein described is intended to be the appropriate and exclusive mechanism to address that circumstance. FPL's adjusted equity ratio will be capped at 55.83% as included in FPL's projected 1998 Rate of Return Report for surveillance purposes. The adjusted equity ratio equals common equity divided by the sum of common equity, preferred equity, debt and off-balance sheet obligations. The amount used for off-balance sheet obligations will be calculated per the Standard & Poor's methodology as used in its August 1998 credit report.

5. No party to this Stipulation and Settlement will request, support, or seek to impose a change in the application of any provision hereof. OPC, FIPUG and the Coalition will neither seek nor support any additional reduction in FPL's base rates and charges, including interim rate decreases, to take effect for three years from the Implementation Date unless such reduction is initiated by FPL. FPL will not petition for an increase in its base rates and charges, including interim rate increases, to take effect before three years from the Implementation Date. Other than with respect to the environmental cost recovery clause as herein addressed, FPL will not use the various cost recovery clauses to recover new capital items which traditionally and historically would be recoverable through base rates.

6. During the term of this Stipulation and Settlement revenues which are above the levels stated herein will be shared between FPL and its retail electric utility customers--it being expressly understood and agreed that the mechanism for earnings sharing herein established is not intended to be a vehicle for "rate case" type inquiry concerning expenses, investment and financial results of operations. For the first 12 months beginning with the Implementation Date, FPL's retail base rate revenues in excess of $3.400 billion up to $3.556 billion will be shared between FPL and its customers on a one-third/two-thirds basis, one-third to be retained by FPL and two-thirds to be refunded to its

customers. Retail base rate revenues above $3.556 billion for the first 12-month period will be refunded to FPL's customers. For the second 12-month period, retail base rate revenues in excess of $3.450 billion up to $3.606 billion will be subject to the same one-third/two-thirds sharing between FPL and its customers. Retail base rate revenues above $3.606 billion for the second 12-month period will be refunded to FPL customers. For the third and final 12-month period, retail base rate revenues in excess of $3.500 billion up to $3.656 billion will be subject to the same one-third/two-thirds sharing between FPL and its customers. Retail base rate revenues above $3.656 billion for the third 12-month period will be refunded to FPL's customers. Because implementation of this Stipulation and Settlement may not begin on the first day of a calendar month, the three resulting 12 month periods used to calculate potential refunds may each include two partial calendar months. Revenues for these two partial calendar months will be calculated by multiplying total revenues for the full calendar month by the ratio of days the Stipulation and Settlement is in effect in the partial calendar month, or days to complete the applicable twelve month period, as the case may be, to the total days in that calendar month.

All refunds will be paid with interest at the 30-day commercial paper rate as specified in Rule 25-6.109, Florida Administrative Code, to customers of record during the last three

months of each applicable 12-month period based on their proportionate share of kWh usage for the 12-month period. For purposes of calculating interest only, it will be assumed that revenues to be refunded were collected evenly throughout the preceding 12-month period at the rate of one-twelfth per month. All refunds with interest will be in the form of a credit on the customers' bills beginning with the first day of the first billing cycle of the second month after the end of the applicable twelve month period. Refunds to former customers will be completed as expeditiously as reasonably possible.

7. FPL's recovery of costs through the environmental cost recovery docket will be phased out over a three-year period beginning January 1, 2000. FPL will be allowed to recover its otherwise eligible and prudent environmental costs, including true-up amounts, in 2000 up to $12.8 million. For 2001, FPL will be allowed to recover its otherwise eligible and prudent environmental costs, including true-up amounts, up to $6.4 million. For 2002, FPL will not be allowed to recover any costs through the environmental cost recovery docket. FPL may, however, petition to recover in 2003 prudent environmental costs incurred after the expiration of the three-year term of this Stipulation and Settlement in 2002.

8. During the term of this Stipulation and Settlement, accruals for nuclear decommissioning and fossil dismantlement

expense will be capped at the level previously approved by the Commission in Order No. PSC-95-1531-FOF-EI in Dockets Nos. 941350-EI and 941352-EI as amended by Order No. PSC-95-1531A-FOF-EI and Order No. PSC-95-1532-FOF-EI in Docket No. 941343-EI. In addition, the Protests or Petitions on Proposed Agency Action by FIPUG and the Coalition of Order No. PSC-99-0073-FOF-EI will be withdrawn and that Order will be made final. Thereafter, depreciation rates as addressed in Order No. PSC-99-0073-FOF-EI will not be exceeded for the term of this Stipulation and Settlement.

9. The construction costs associated with the Ft. Myers and Sanford plant repowering projects will be treated as CWIP in rate base and AFUDC will not be accrued on these projects.

10. This Stipulation and Settlement is contingent on approval in its entirety by the Florida Public Service Commission. This Stipulation and Settlement will resolve all matters in this Docket pursuant to and in accordance with Section 120.57(4), Florida Statutes (1997). This Docket will be closed effective on the date the Florida Public Service Commission Order approving this Stipulation and Settlement is final.

11. This Stipulation and Settlement, dated as of March 10, 1999, may be executed in counterpart originals and a facsimile of an original signature shall be deemed an original.

In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Stipulation and Settlement by their signature.

Florida Power & Light Company
9250 West Flagler Street
Miami, Florida 33174

Steel Hector & Davis LLP

By: _____
Matthew M. Childs, P.A.

Office of Public Counsel
111 West Madison Street
Suite 810
Tallahassee, FL 32399

By: _____
Jack Shreve

Florida Industrial
Power Users Group

John W. McWhirter, Jr., Esq.
McWhirter, Reeves, McGlothlin,
Davidson, Decker, Kaufman
Arnold & Steen, P.A.
P. O. Box 3350
Tampa, FL 33601-3350

By: _____
John W. McWhirter

The Coalition for
Equitable Rates

Ronald C. LaFace, Esq.
Seann M. Frazier, Esq.
Greenberg, Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301

By: _____
Ronald C. LaFace