

ORIGINAL

IN THE SUPREME COURT OF FLORIDA
Case No. SC02-1023

On Appeal from a Final Order of
The Florida Public Service Commission

**SOUTH FLORIDA HOSPITAL AND
HEALTHCARE ASSOCIATION, et al.**

Appellants,

v.

LILA A. JABER, et al.,

Appellees.

**INITIAL BRIEF OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION, et al.**

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INTRODUCTION

South Florida Hospital and Healthcare Association, Ann Bates Leach Eye Hospital, Aventura Hospital, Baptist Hospital of Miami, Bascom Palmer Eye Institute, Broward General Medical Center, Cedars Medical Center, Columbia Hospital, Coral Gables Hospital, Coral Springs Medical Center, Deering Hospital, Delray Medical Center, Florida Medical Center, Hialeah Hospital, Hollywood Medical Center, Imperial Point Medical Center, JFK Medical Center, Kendall Regional Medical Center, Miami Children's Hospital, Miami Heart Medical Center, Mt. Sinai Medical Center, North Broward Medical Center, North Ridge Medical Center, North Shore Medical Center Northwest Medical Center, Palm Beach Gardens Medical Center, Palmetto General Hospital, Palms West Hospital, Parkway Regional Medical Center, Plantation General Hospital, South Miami Hospital, University Hospital, University of Miami Hospital and Clinics, Vencor Hospital - Coral Gables, Vencor Hospital - Ft. Lauderdale, Vencor Hospital - Hollywood, West Boca Medical Center and Westside Regional Medical Center (collectively, the "Hospitals") appeal a decision of the Florida Public Service Commission ("Commission"). In support hereof, the Hospitals state as follows:

STATEMENT OF THE CASE AND FACTS

On appeal here is the Commission's approval of a settlement terminating the incomplete review of the retail rates of Florida Power & Light Company ("FPL"). *In re: Review of the retail rates of Florida Power & Light Company*, Order No. PSC-02-0501-AS-EI (April 11, 2002). (R.11899). The Commission approved the settlement over the Hospitals' objections and despite their request for a hearing to examine whether there was a sufficient evidentiary basis for the Commission to determine that the settlement would produce just and reasonable rates.

The Commission proceeding that was resolved by the settlement was initiated by Commission Order No. PSC-01-1346-PCO-EI. *In re: Review of Florida Power & Light Company's proposed merger with Entergy Corporation, the formation of a Florida transmission company, and their effect on FPL's rates*, 01 FPSC 6:3 78 (2001). (R. 395). In that order the Commission discussed a number of factors that led it to conclude that there should be a comprehensive review of PFL's rates.

One such factor was Governor Bush's creation of the Energy 2020 Study Commission ("Energy Commission"), which was charged with proposing an energy plan and strategy for Florida over the next 20 years. In December 2000, the Energy Commission filed an Interim Report with the Legislature that included

proposed legislation designed to move Florida to a wholesale deregulated energy market. That draft legislation included a proposal to place a cap on retail base rates. During the legislative session that considered the proposed legislation, there were concerns expressed about the earnings level of investor-owned companies (such as FPL), the value of their generation and transmission assets and whether current base rates accurately reflected costs. (R. 396).

In addition, the Commission also expressed concerns about FPL in particular that, in the Commission's view, warranted a comprehensive review of FPL's rates. One concern involved FPL's return on equity. The return on equity that FPL was authorized to earn had been capped by the terms of a stipulation that FPL and others entered into in 1999 (the "1999 Stipulation"). The cap on FPL's authorized return on equity was part of a revenue sharing plan under which FPL shared with ratepayers some level of revenues in excess of agreed-upon thresholds. The 1999 Stipulation recognized that from time to time, FPL's achieved return on equity might be outside the authorized range. The Commission's order setting this matter for hearing noted, however, that in every month since the inception of the 1999 Stipulation, FPL's achieved return on equity had exceeded the benchmark return level by a range of 4 to 157 basis points, or, figured conservatively, on average 49 basis points above the top of the range. The Commission stated that it was concerned that when the revenue sharing plan was scheduled to terminate on April

14, 2002, FPL would continue to over-earn with no protection for ratepayers from FPL's high earnings. (R. 397).

The Commission also was concerned with the portion of FPL's capitalization attributed to common equity (as opposed to for instance debt) because the higher a utility's equity component presumed or imputed to derive rates, all other things being equal, the higher the aggregate cost of service. The Commission noted that although FPL's equity ratio was capped by the 1999 Stipulation at 55.83% on an adjusted basis for purposes of surveillance reports that FPL files with the Commission, FPL's adjusted equity ratio had exceeded the cap since March 2000. The Commission further stated that FPL's actual equity ratio of 65% was well above the average for AA-rated electric utilities and that a rate proceeding would afford an opportunity to set an appropriate ratio to use for ratemaking purposes after the expiration of the revenue sharing mechanism under the 1999 Stipulation. (R. 398).

Another factor that the Commission referenced as a basis to implement a review of FPL's rates was the proposed creation of GridFlorida, a regional transmission organization ("RTO") being formed in response to an order of the Federal Energy Regulatory Commission ("FERC"). Under the FERC's order, Florida's utilities (such as FPL) that provide transmission services that are subject to the FERC's jurisdiction, would contribute their FERC jurisdictional

transmission facilities to GridFlorida. Thereafter, GridFlorida would assume operational control of the facilities, and transmission rates would be determined in a manner that would depart from the traditional manner in which rates have been set for each of the stand-alone utilities. The Commission determined that the implementation of GridFlorida would have a significant impact on FPL's investments and expenses in the future. It also determined that retail rates, which currently include a component to recover the costs of transmission facilities, would have to be reconciled with the imposition of new wholesale transmission rates that would be charged by GridFlorida. (R. 396).

In addition to the foregoing reasons for finding that an earnings review was needed, the Commission noted that FPL's most recent fully allocated cost of service study was filed in 1981 for a projected 1983 test year. Thus, a comprehensive review of FPL's rates had not taken place in 18 years.

In view of these factors, the Commission determined that it was necessary to initiate a base rate proceeding (i) to address the level of FPL's earnings, (ii) to assure appropriate retail rates on a going forward basis and (iii) to provide for appropriate benefits to ratepayers from the creation of an RTO and future restructuring of Florida's electric market. (R. 398).

On October 24, 2001, in Order No. PSC-01-2111-PCO-EI, the Commission established procedures for reviewing FPL's rates (the "Hearing Order"). *In re:*

Review of the retail rates of Florida Power & Light Company, 01 FPSC 10:484 (2001). (R. 9394). In the Hearing Order, the Commission considered a proposal by FPL that would have modified the procedures that normally would be utilized in a rate review. Under normal procedures, a utility files Minimum Filing Requirements ("MFRs"), which are schedules that set forth specified arrays of historical and projected financial and operational data that are relevant to ratemaking, after which parties conduct discovery and proceed to a hearing. Following the hearing and briefing, Commission Staff issues a recommendation to the Commission concerning the Staff's view as to the proper disposition of the particular case. The Commission then can review Staff's recommendation in the context of the comprehensive record developed by all the parties during the hearing and through briefing.

Under FPL's proposal, following Staff's review of the data in the MFRs, Staff would have issued a recommendation setting forth its preliminary assessment of the reasonableness of FPL's rates. (R. 9399). Whatever hearing then would take place would be narrowed by Staff's recommendations based upon its preliminary assessment.

The Commission declined to accept FPL's proposal. The Hearing Order noted:

FPL's suggestion of requiring a staff recommendation on how best to proceed based upon its review of the

extensive and comprehensive 2002 forecast data is unnecessary, not practical, and potentially prejudicial to the rights of one or more of the parties.

Order No. PSC-01-2111-PCO-EI at 7. (R. 9400).

The Commission went on to explain:

The Commission ordered the utility to file MFRs to determine what FPL's retail rates should be on a going forward basis. There are two means of addressing that issue with finality in Florida Administrative Law. First, via a settlement, agreed to by all parties to the proceeding and subsequently approved by the Commission. Second, via a hearing conducted pursuant to Sections 120.569 and 120.57, Florida Statutes.

Id. (R. 9400).

Consistent with this ruling, the Commission set the matter for hearing to commence on April 10, 2002. (R. 9400). However, the Commission ultimately did not follow either of the two procedures that the Hearing Order specifies are the two means available to set FPL's retail rates, *i.e.*, there neither was a unanimous settlement nor did the Commission afford parties a hearing on the merits.

What transpired instead was that the procedural schedule was aborted prior to the completion of discovery and prior to the convening of an evidentiary hearing in which parties would have been given the opportunity to cross-examine FPL's witnesses. On March 14, 2002, FPL along with other parties to the proceeding, but not the Hospitals, filed a joint motion asking the Commission to approve a proposed settlement of the case. (R. 11739). On the same day, FPL moved to

suspend the procedural schedule in view of the pending proposed settlement. (R. 11735). The motion to suspend the procedural schedule was granted on that same day. (R. 11785).

The proposed settlement is to be effective for the period April 15, 2002 through December 31, 2005. (R. 11748). Its most significant terms provide (i) for a \$250 million annual reduction to FPL's base rates (*id.*) and (ii) a revenue sharing arrangement if FPL's retail base rate revenues exceed certain specified levels. (R. 11749). Notwithstanding those provisions, the settlement also provides FPL an opportunity to file for a rate increase during the term of the settlement if its retail base rate earnings fall below a 10% return on equity. (R. 11750).

The Hospitals opposed the proposed settlement for two fundamental reasons. First, the evidence they had developed up until that time and which was set forth in the prepared testimony of their expert witness, or which they intended to elicit through cross-examination of FPL's witnesses, showed that the annual base rate reduction of \$250 million under the settlement was woefully short of providing just and reasonable rates. (R. 11849). The Hospitals' evidence, inclusive of evidence that would have been developed on cross-examination, supported an annual base rate reduction of \$535 million. (R. 11849-50). Appendix A hereto sets forth a summary of the evidence that the Hospitals would have presented, had they been afforded a hearing, to support a rate reduction of at least \$535 million. Second, the

discovery process was not complete and discovery concerning two significant issues was outstanding. (R. 11852 and 11854). Had the Hospitals been given the opportunity to obtain complete discovery concerning the two outstanding issues, they may have been able to show that even an annual reduction of \$535 million to base rates was insufficient to produce just and reasonable rates.

One area of discovery that was outstanding concerned transactions between FPL's affiliates and between an unregulated affiliate and an unaffiliated entity. The Hospitals had sought information concerning those transactions to determine whether FPL had shifted value away from ratepayers to unregulated entities where the value would be used exclusively for the benefit of shareholders. (R. 11004-19).

The basis for the Hospitals' discovery requests into these transactions was information included in filings with the Securities and Exchange Commission, shareholder reports and reports FPL had filed with the Commission outside the context of the rate case. Certain of those discovery requests concerned transactions with an entity named Adelphia Communications ("Adelphia"). Adelphia uses FPL property to conduct its business, and pays FPL for the right to use that property. Adelphia, through its affiliates Adelphia Cable and Adelphia Business Solutions, pays rental for use of FPL facilities. Revenue from Adelphia is credited against the

jurisdictional cost of service of electric ratepayers. The lower the revenue from Adelphia, the more residual cost must be borne by FPL's ratepayers. (R. 11679).

Adelphia is not just another entity using FPL property. FPL's general counsel was on the Board of Directors of Adelphia. (R. 11683). FPL's general counsel also was president of an entity named Cable GP, Inc., which was a partner in an entity named Olympus Communications, L.P. ("Olympus"). *Id.* The other major owner of interests in Olympus was Adelphia. (R. 11679). Adelphia's other partners in the Olympus partnership were subsidiaries of FPL Group, Inc. operating under the name "Telesat." *Id.* Olympus operates one of the largest contiguous cable systems located in some of the fastest growing markets in Florida. As of December 31, 1999, Olympus' cable system passed in front of 974,861 homes and served 651,308 basic subscribers. *Id.* To provide its services, Olympus owns or leases parcels of real property for signal reception sites (antenna towers and headends) and microwave facilities. (R. 11680).

Whether through clearing rights of way which would be charged to ratepayers but which could benefit others using the right of way or by conveying property rights in lease or in fee to Olympus or Adelphia (for example to be used by Olympus or Adelphia for antenna towers or microwave facilities), the FPL Group by means of controlling FPL could benefit Adelphia and Olympus in numerous ways. (R. 11682).

By late 1999, FPL Group sold 3.5 million shares of Adelphia common stock and had its interest in an unnamed cable limited partnership redeemed, for aggregate after-tax gains of more than \$160 million, according to FPL Group's 1999 Annual Report. (R. 11680). The circumstances described above caused the Hospitals to seek discovery to determine whether FPL in fact had shifted value to Adelphia and Olympus at ratepayer expense, and the FPL Group then appropriated increases in value for the benefit of shareholders.

There also were other transactions that caused the Hospitals to seek discovery concerning affiliate transactions. In early 2000, FPL conveyed to its wholly-owned affiliate FiberNet substantial assets involving, *inter alia*, fiber optic cables originally installed to assist in FPL's operation of its electric utility system. (R. 11680). FPL Group's annual report disclosed that FiberNet's "fiber optic network was originally developed in the late 1980s to provide internal telecommunications service to support company operations." *Id.* Since FPL's conveyance of the assets to FiberNet, FPL's revenues credited against its jurisdictional electric cost of service have fallen significantly. *Id.* Additionally, FPL has been engaged in shedding millions of dollars of property to a non-regulated affiliate named Land Resource Investment Company ("LRIC"). *Id.* What is done by LRIC with the property, including renting or selling portions of it

to third parties, is not disclosed in diversification reports that FPL routinely files with the Commission. *Id.*

FPL resisted providing the requested data. Thus the Hospitals moved to compel production of requested data. (R. 11004). The Presiding Officer agreed that the Hospitals were entitled to obtain the discovery they sought concerning the transactions between FPL, non-Commission regulated affiliates and other entities. In Order No. PSC-02-0254-PCO-EI, he ruled that having considered the arguments, *i.e.*, which included the argument that FPL might be shifting value from ratepayers to shareholders, the Hospitals were entitled to obtain the information they were seeking and ordered FPL to produce the information within two days. *In re: Review of the retail rates of Florida Power & Light Company*, 02 FPSC 2:194 (2002). (R. 11125). However, rather than produce the discovery, FPL filed a motion for reconsideration. (R. 11245). FPL's reconsideration motion was pending before the Presiding Officer at the time that the proposed settlement was filed and the procedural schedule was suspended. Once the Commission approved the proposed settlement, the Presiding Judge vacated the prior order that had required FPL to provide the Hospitals with discovery concerning the affiliate transactions. *In re: Review of the retail rates of Florida Power & Light Company*, 02-FPSC 3:326 (2002). (R. 11832). Thus, the Hospitals never obtained the outstanding discovery concerning affiliate transactions that might have disclosed

that reductions to FPL's base rates were warranted in excess of the \$535 million that the Hospitals had identified up until that time.

In lieu of completing discovery and convening a hearing, the Commission considered the proposed settlement in a special meeting held on March 22, 2002. At the outset of the meeting, the Commission indicated that parties would be given up to five minutes each to make their presentation. (R. 11838). Counsel for the Hospitals indicated that the Hospitals had assumed that they would be given an opportunity to present a thorough analysis to show why the settlement should not be approved. (R. 11848). After indicating that "we really are here to discuss the proposed settlement" (R. 11849), implying that it had not been the Commission's intention to discuss objections to the proposed settlement, the Commission ultimately allowed the Hospitals 15 minutes to explain their opposition to the proposed settlement. (R. 11849). The Hospitals concluded their remarks by asking the Commission to defer ruling on the proposed settlement and to allow the discovery process to be completed in order to obtain discovery concerning FPL's affiliate dealings as well as with respect to the other area of discovery that was outstanding. (R. 11855).

The other area involved FPL's resource planning process. (R. 11854). Information that had been provided revealed that FPL had incurred a \$100 million cost overrun in connection with the repowering of one of its generation plants.

(R. 11854). The Hospitals had outstanding discovery requests designed to obtain information concerning whether any other cost overruns had occurred, whether FPL's generation resource planning process was being performed in a prudent manner and whether FPL was attempting to pass through to ratepayers costs that had been imprudently incurred associated with the construction of new electric generating capacity. (R. 11295). The Hospitals asked to be allowed to complete discovery concerning the affiliate transaction issue and the costs of new generation plant and asked that the Commission thereafter hold a hearing on the merits of the proposed settlement to find out whether it results in just and reasonable rates. (R. 11855). The Hospitals pointed out that such a determination only can be made based upon a full and adequate administrative record, which was something the Commission lacked. (R. 11855).

The Commission, however, approved the settlement over the Hospitals' objection and without affording the Hospitals either the discovery they had requested or the opportunity of a hearing. As a result, the Commission, in approving the settlement, disregarded the conclusion in the Hearing Order that there are only two ways to resolve this case under Florida Administrative Law, *i.e.*, through a unanimous settlement or a hearing conducted pursuant to Sections 120.569 and 120.57, Florida Statutes. (R. 9400). Additionally, in approving the settlement, the Commission did so without the benefit of having reviewed prepared

testimony submitted either by the Office of Public Counsel (“OPC”) or the Commission’s own Staff. Neither of those parties filed prepared testimony in accordance with the Commission’s procedural schedule at the time the Commission approved the settlement. While Staff’s position on FPL’s rates is unknown, OPC disclosed that its testimony, had it been filed, would have on some issues called for larger reductions than had been identified by the Hospitals. (R. 11877).

SUMMARY OF ARGUMENT

Section 120.569(2)(b), Florida Statutes, guarantees that in a proceeding in which the substantial interests of a party will be affected by an agency determination, the agency will afford all parties the opportunity for a hearing. Section 120.569(2)(j) guarantees a party to such a proceeding a right to conduct cross-examination. Similarly, Section 120.57, Florida Statutes, guarantees that when hearings involve disputed issues of material fact, parties shall be given the opportunity to present evidence on all issues involved and to conduct cross-examination. Based upon this statutory scheme, this Court, as well as other Florida courts, consistently have ruled that it would be a denial of due process for the Commission to deny a party the hearing that is guaranteed by Sections 120.569 and 120.57, Florida Statutes. *See, e.g., Florida Gas Co. v. Hawkins*, 372 So. 2d 1118 (Fla. 1979). In *Florida Gas*, this Court in fact made clear that when the fairness of

a utility's rates are being considered, due process requires a fair hearing. *Id.* at 1121.

This case involves a review FPL's rates. Based upon Florida's statutory scheme, and presumably the case law addressing that statutory framework, the Commission initially scheduled a hearing in this case. In doing so, and in rejecting a proposal by FPL that would have restricted the scope of the proceeding that would take place, the Commission unequivocally ruled that there was a requirement to provide the hearing contemplated by Sections 120.568 and 120.57 lest the rights of participants be prejudiced. (R. 9400). The only exception that the Commission found to the requirement to provide the hearing was in the event a unanimous settlement could be reached by all the parties. *Id.*

When a settlement was proposed in this case, the Hospitals opposed the settlement on the record. (R. 11848). The Hospitals argued to the Commission that the rate cut provided by the proposed settlement was well short of providing just and reasonable rates. (R. 11849). The Hospitals' evidence developed to that point showed that a rate reduction of more than double the reduction provided by the settlement was required to produce just and reasonable rates. The Hospitals thus asked the Commission to defer ruling on the settlement to allow discovery to be completed and to afford the Hospitals a hearing. (R. 11855).

Nonetheless, in disregard of its earlier ruling, the Commission rushed to judgment and approved the settlement. In doing so, it trampled on the Hospitals' due process and statutory rights. It also disregarded the jurisprudence in this state which required that the Hospitals be provided the hearing that the Commission had promised and the Hospitals had requested.

Further, the Commission approved the settlement without the benefit of an evidentiary record to support the Commission's actions. Discovery was ongoing and had not been completed concerning critical issues that would show, *inter alia*, whether FPL's ratepayers are subsidizing the operations of unregulated companies affiliated with FPL. Further, neither the Office of Public Counsel nor Commission Staff had yet submitted prepared testimony that would have disclosed what they believe is the just and reasonable level of FPL's rates. Similarly, because a hearing never was convened, FPL's witnesses never were submitted to the scrutiny of cross-examination that might have disclosed short-comings in their prepared testimony in support of FPL's case. Thus, there simply was no evidentiary record to support a decision by the Commission.

In view of these circumstances, the Commission had insufficient information before it to answer the key questions that the Commission had posed itself in initiating the proceeding. Specifically, there was not an evidentiary record to support a conclusion that FPL would not continue to achieve unreasonable returns

on equity. There was not an evidentiary record to support a conclusion that the base rates provided by the settlement accurately would reflect FPL's costs. Additionally, the Commission did not address (much less remedy) FPL's unusually thick common equity component.

The failure to develop an evidentiary record concerning these important issues stems from the fact that the Commission aborted the discovery process and refused to convene the statutorily-required hearing. As a consequence, numerous subparts of Section 120.68(7), Florida Statutes, require that this case be remanded to the Commission with a direction to allow the Hospitals to complete discovery and afford them the hearing that is guaranteed by Sections 120.569 and 120.57, Florida Statutes.

STANDARD OF REVIEW

Section 120.68(7), Florida Statutes sets forth the standard of review applicable to this case. There are a number of provisions that dictate that this should be remanded to the Commission with directions for the Commission to afford the Hospitals procedural rights that are guaranteed under Florida law.

Section 120.68(7)(a) provides that:

The court shall remand a case to the agency for further proceedings consistent with the court's decision or set aside agency action, as appropriate, when it finds that:

(a) There has been no hearing prior to agency action and the reviewing court finds that the validity of the action depends on disputed facts.

Section 120.68(7)(a), Florida Statutes.

As will be discussed in more detail *infra* at 26, this provision requires that this proceeding be remanded to resolve a wealth of disputed facts.

Section 120.68(7)(b) also requires a remand. That section provides that a reviewing court shall set aside an agency decision or remand the case to the agency where:

(b) The agency's action depends on any finding of fact that is not supported by competent, substantial evidence in the record of a hearing conducted pursuant to Sections 120.569 and 120.57 . . . ;

Section 120.68(7)(b), Florida Statutes.

This provision requires that this case be remanded because although this proceeding was supposed to take place pursuant to the requirements of Sections 120.569 and 120.57, and a Commission order in the proceeding should have been supported by findings of fact, the order approving the settlement makes no formal findings of fact. Nonetheless, the Commission assumed the ultimate fact, *i.e.*, that the settlement is "a reasonable resolution of the issues regarding FPL's level of earnings and base rates." Final Order at 4. This "finding" is not supported by substantial evidence, as no evidence was adduced in the case. In a remanded proceeding, the Hospitals would be given the opportunity to develop a factual

record to show that a rate reduction is warranted in excess of the \$250 million that is provided by the settlement.

Section 120.68(7)(c) also requires a remand. That section provides that a reviewing court shall set aside an agency decision or remand the case to the agency where:

(c) The fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure.

Section 120.68(7)(c), Florida Statutes.

Here, both the fairness of the proceeding and the correctness of the Commission's action are severely impaired by the Commission's failure to afford the Hospitals a hearing that is mandated under Florida law.

Section 120.68(7)(d) also applies. It provides that a reviewing court shall set aside an agency decision or remand the case to the agency where:

(d) The agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action.

The error here was that Section 120.57 guarantees parties to administrative proceedings involving disputed facts the opportunity, *inter alia*, to present evidence and conduct cross-examination. The Commission committed an error of law in denying the Hospitals those opportunities and the correct interpretation of

the law compels that the Hospitals be afforded a full hearing as provided for by statute.

Finally, Sections 120.68(7)(e)1 and 4 also apply. Those sections provide that a reviewing court shall set aside an agency decision or remand the case to the agency where:

(e) The agency's exercise of discretion was:

1. Outside the range of discretion delegated to the agency by law; [or]

* * * * *

4. Otherwise in violation of a constitutional or statutory provision.

Section 120.68(7)(e), Florida Statutes.

As will be discussed, the Commission did not have discretion to deny the Hospitals a hearing, and in declining to afford the Hospitals the hearing they requested, the Commission violated the Hospitals' due process rights.

ARGUMENT

I. THE COMMISSION ERRED IN DENYING THE HOSPITALS A HEARING

A. Due Process Requires That The Hospitals Be Afforded A Hearing

Under the laws of this state, the Hospitals clearly were entitled to the hearing which they had requested. The Commission's order approving the settlement in lieu of holding that hearing was a denial of due process.

Sections 120.569 and 120.57(1)(b), Florida Statutes guarantee a party to an administrative proceeding the right to a hearing. In particular, Section 120.569(2)(b), Florida Statutes, provides that in proceedings in which the substantial interests of a party are determined by the agency, "[a]ll parties shall be afforded an opportunity for a hearing" Further, Section 120.569(2)(j) provides a party the right to conduct cross-examination. The requirement for an agency to afford a party the right to conduct cross-examination, as well as a requirement for the agency to comply with a panoply of procedural mechanisms designed to guarantee parties' due process rights, is further mandated by Section 120.57(1)(b) when a proceeding involves disputed issues of material facts. Consistent with the requirements of Sections 120.569 and 120.57(1)(b), this Court,

and other Florida courts, have held that it is a denial of due process to deny a party a hearing in an administrative proceeding in circumstances such as these.

In *Florida Gas Co. v. Hawkins*, 372 So. 2d 1118 (Fla. 1979), the Court was asked to review a Commission order that denied a public utility a formal rate proceeding where the utility had filed for a rate increase. The Commission had denied the utility the hearing based upon the Commission's review of data preliminarily filed by the utility and its determination that summary rejection of the utility's proposed rate increase would avoid unnecessary litigation.

This Court quashed the Commission's order, ruling that the Commission had denied the utility due process. In reaching that conclusion, the Court ruled:

When factual matters affecting the fairness of utility rates are being considered by a regulatory commission the rudiments of fair play and due process require that the Company must be afforded a fair hearing and an opportunity to explain or rebut those matters. There can be no compromise on the footing of convenience or expediency, or because of a natural desire to avoid delay, when the minimal requirement of a fair hearing has been neglected or ignored.

372 So. 2d at 1121, citing *Ohio Bell Tel. Co. v. Public. Util. Comm'n of Ohio*, 301 U.S. 292 (1937). The Court based that decision on its holding in *Florida Rate Conference v. Florida R.R. and Public Util. Comm'n*, 108 So. 2d 601, 607 (Fla. 1959) where it stated:

. . . [W]e have held that where a rate, rule or regulation is made without statutory authority or without giving the carrier affected by it, reasonable opportunity to be heard, or without obtaining or considering any substantial evidence, where investigation, inquiry and evidence are necessary as a basis for the action taken, the proceeding is not had in due course of law and this court will not enforce it. *State ex rel. Railroad Com'rs v. Florida East Coast R. Co.*, 1912, 64 Fla. 112, 59 So. 385, 393.

372 So. 2d at 1120.

The Court also relied upon its holding in *Citizens of the State of Fla. v. Mayo*, 333 So. 2d 1 (Fla. 1976). In that case, the Court held that “[t]he general procedure has been and remains that rate increases are awarded only after a public hearing in which testimony is presented by all interested parties and cross-examination is permitted.” *Citizens of the State of Fla. v. Mayo*, 333 So. 2d at 4. Reflective of that holding, in *Florida Gas*, the Court stated that in *Citizens of the State of Fla. v. Mayo* “the Court reaffirmed the public policy of this state favoring traditional due process rights in utility rate hearings.” 372 So. 2d at 1121.

The reasoning of the *Florida Gas* decision is fully consistent with the subsequent jurisprudence of this state. For instance, the court held in *Village Saloon, Inc. v. Division of Alcoholic Beverages & Tobacco*, 463 So. 2d 278 (Fla. 1st DCA 1985):

Fundamental to due process is the right to a fair hearing. The provisions of Section 120.57 implement the right through the mechanism of formal proceedings or

informal proceedings. Section 120.57(1) governs formal proceedings and necessarily requires the holding of a hearing. . . . While a party has the absolute right to a formal hearing under Section 120.57(1) when material facts are in dispute, the absence of disputed issues of material fact, which authorizes informal proceedings under section 120.57(2), does not, ipso facto, eliminate the right to a hearing. Hearings, whether conducted under Section 120.57(1) or (2), provide the essential mechanism whereby parties confront each other at a common time and situs and present evidence, legal authority, and argument in support of their respective positions.

463 So. 2d at 284-85; *see also Citizens of the State of Fla. v. Wilson*, 568 So. 2d 904, 908 (Fla. 1990) (“The Commission cannot enter a final order without giving interested parties the right to a hearing.”); *Shaker Lakes Apts. Co. v. Dolinger*, 714 So. 2d 1040, 1040-41 (Fla. 1st DCA 1998) (“Section 120.57(1), Florida Statutes (Supp. 1996), guarantees all parties the opportunity to present evidence in a full evidentiary hearing.”). Indeed, albeit in a dissent, the now Chairman of the Commission recognized this principal herself when she wrote:

Pursuant to Section 120.57(1)(h), Florida Statutes, a summary final order shall be rendered if it is determined from the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists. I note, in this case, that the customer may not have had the benefit of discovery (depositions, answers to interrogatories or admissions on file) that may allow the requisite demonstration of a genuine issue of material fact as contemplated by this state. For that reason alone, I dissent from the majority’s decision.

In re: Petition by Florida Power & Light Company for approval of conditional settlement agreement which terminates standard offer contracts originally entered into between FPL and Okeelanta Corporation and FPL and Osccola Farms, Co.,
00 FPSC 12:89 (2000); 2000 Fla. PUC LEXIS 1296* 16-17 (2000).

Thus, its is clear that due process mandates that the Commission require the completion of the discovery process and afford the Hospitals the hearing that the Commission had scheduled and which the Hospitals requested be held notwithstanding the proposed settlement. By denying the Hospitals the opportunity for that hearing and completing discovery, the Commission denied the Hospitals due process as demonstrated by the cases relied upon above. That is particularly so given that the hearing would have involved disputes over material fact and that a hearing therefore was required under Section 120.57(1), Florida Statutes.

B. The Validity Of The Commission's Order Depends Upon Disputed Facts

The prepared testimony of FPL proposed to keep base rates at the level in effect under the 1999 Stipulation. The settlement that was approved by the Commission reduced the base rates by \$250 million annually. (R. 11900). The prepared testimony of the expert witness sponsored by the Hospitals, Mr. Lane Kollen, however, raised numerous issues to support an annual reduction of \$475

million. (R. 11325-431). Additionally, the Hospitals intended to introduce evidence concerning several issues through cross-examination of FPL's witnesses that would have called for annual reductions to FPL's base rates of an additional \$60 million, *i.e.*, for a total annual reduction supported by the Hospitals of \$535 million. (R. 11850). Further, additional discovery that had not yet been completed may have served as a basis for the Hospitals to seek a rate reduction in excess of \$535 million annually.

To determine whether the settlement resulted in just and reasonable rates, or rates that are excessive and therefore are unjust and unreasonable, required the resolution of numerous factual disputes involved in the difference between the \$250 million reduction approved by the settlement and the greater reduction supported by the Hospitals. Section 120.68(7)(a), Florida Statutes, thus requires the Court to remand this case to the Commission for a hearing to resolve the factual disputes discussed below. *See, e.g., Peterson v. Department of Business Regulation*, 451 So. 2d 983 (Fla. 1st DCA 1984) (a hearing is a matter of right, *i.e.*, it is not within an agency's discretion to deny a hearing); *see also Zarifian v. Department of State*, 552 So. 2d 267 (Fla. 2nd DCA 1989) ("Section 157(1), Florida Statutes (1987) provides for a formal hearing when a disputed issue of material fact is involved."); *Saddlebrook Resorts, Inc., v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123, 1126 (Fla. 2nd DCA 1993) ("when there is a disputed issue of fact to be

determined, Section 120.57 requires a formal proceeding unless waived by *all* parties to the proceeding.”) (emphasis in original).

One issue that turns on the resolution of factual disputes concerns FPL’s affiliate transactions. As was shown above, based upon the information that is known, FPL Group shareholders enjoyed a substantial gain from the sale of interests in Adelphia, a company that was doing business with FPL and which had at least one common officer with FPL. (R. 11683). Additionally, Adelphia had a direct financial relationship with Olympus, which would benefit from using FPL’s rights-of-ways. (R. 11679 and 11682). FPL also transferred a fiber optic network to its affiliate, FiberNet, and thereafter, rental revenues that are credited against FPL’s jurisdictional cost of service fell precipitously. (R. 11680). And, FPL shed millions of dollars in valuable assets to LRIC, another affiliate. *Id.* These relationships and transactions, which again must be explored in greater detail through additional discovery, raise the question whether FPL has engaged in activities that result in revenues that should have benefited ratepayers as credits against FPL’s jurisdictional cost of service, instead being used to benefit shareholders. If an examination of the facts ultimately shows that FPL has engaged in such activities, such a finding would require that those activities be taken into account in setting rates.

Section 366.093(1), Florida Statutes, explicitly gives the Commission access to the public records of utilities, their affiliates and their parent corporations “to ensure that a utility’s ratepayers do not subsidize nonutility activities.” Consistent with this provision, the Commission is required to reduce rates when necessary to ensure that a public utility’s rates do not subsidize affiliates’ business activities. Indeed, the Commission itself has ruled that “a basic premise of regulation is that utility operations should not subsidize other operations” *In re: Petition for a rate increase by Florida Power Corporation*, Order No. PSC-92-1197-FOF-EI, 1992 Fla. PUC LEXIS 1546* 130 (Oct. 22, 1992); *see also In re: Investigation into the earnings and authorized return on equity of Gulf Power Company. In re: Petition by Gulf Power Company for approval of proposed plan for an incentive revenue-sharing mechanism that addresses certain regulatory issues including a reduction to the company’s authorized return on equity*, Order No. PSC-99-1047-PAA-EI, 1999 Fla. PUC LEXIS 915* 6-7 (May 24, 1999).

Because the procedures before the Commission were aborted, FPL never filed testimony concerning the affiliate issue. However, based upon its statements in response to motions to compel discovery, it is clear that FPL does not believe that its transactions with affiliates would impact rates. (R. 11066 and 11245). Thus, the facts concerning FPL’s affiliate transactions clearly are in dispute. As such, the only way to determine whether FPL has been engaged in activities with

affiliates and other entities that have resulted in ratepayers' subsidization of non-utility operations, and to determine the impact on rates of any such activities, is to remand this case for a completion of discovery and a hearing.

Another issue turning on the resolution of factual disputes involves the question whether FPL's capital expenditures on new generation plants and repowering projects properly are included in rate base. Mr. Kollen's testimony on behalf of the Hospitals showed that FPL was proposing to include in rate base approximately \$100 million representing a cost overrun on FPL's project to repower its Sanford power plant. (R. 11366; *see also* R. 10951). A confidential portion of Mr. Kollen's prepared testimony contains information that relates to the question whether cost overruns and other generation-related expenditures should be included in rate base. (*See* p. 25 of Index of Record). Additionally, the process by which FPL estimated costs of alternatives to its existing generation construction process may be seriously flawed, resulting in skewed decisions regarding construction and procurement of generation resources. Mr. Kollen's prepared testimony further shows that FPL apparently shifted capital expenditures associated with the Sanford repowering project into 2002, the test year for determining rates. (R. 11364). By doing so, FPL appears to have improperly loaded capital costs into 2002 rate base. Resolution of whether the cost overruns of the Sanford repowering project and other generation-related expenditures were

prudently incurred and should be included in rate base in 2002 thus requires a hearing in which the prudence of FPL's activities and planning processes associated with the addition of new generation can be examined.

A third issue requiring the resolution of facts that are in dispute concerns FPL's capital structure, *i.e.*, specifically, the effect of FPL's unusually thick equity component on its return on equity. As previously indicated, the level of FPL's equity component was one of the factors that caused the Commission to implement the review of FPL's rates in the first place.

If there were a hearing, the Hospitals would produce evidence through cross-examination of FPL's witnesses that shows that FPL's unregulated affiliates are engaged in high risk business activities, *i.e.*, building independent power plants in other states. (R. 11851). The Hospitals also would show that the FPL Group, FPL's parent, maintains a very thick equity component in order to provide credit protection necessitated by the high risk activities of the unregulated entities. *Id.* The Hospitals also would show that having the thick equity component, if it is not adjusted downward for ratemaking purposes, causes FPL's ratepayers to subsidize the operations of the unregulated affiliates in violation of the requirement that ratepayers not be required to subsidize non-utility operations. *Id.* The Hospitals maintain that this subsidization has a \$173 million per year effect on FPL's base

rates. *Id.* These are all issues that involve disputed facts that must be resolved by a hearing.

Other factual disputes concern FPL's claimed operation and maintenance ("O&M") expenses. FPL has boasted for years about its successes in reducing O&M expenses. (R. 11350; *see also* R. 11349). Yet, when it was finally forced into a comprehensive rate review, FPL inexplicably tried to justify its rates by claiming that it expected its O&M expenses to increase by 9.2 percent. (R. 11348). The question of whether FPL's O&M expenses actually would increase by 9.2 percent, or some lesser amount, or not at all, is another issue that only can be determined through the resolution of disputed facts. The resolution of this factual dispute would have an annual impact on FPL's base rates in a range of approximately \$47.4 million to \$94.8 million.

Yet another disputed fact issue involves the depreciation expense related to FPL's nuclear generating units. If provided a hearing, the Hospitals would show that FPL applied for 20-year extensions on its operating licenses. (R. 11332). In fact, on June 7, 2002, the 20-year extension was granted by the Nuclear Regulatory Commission for FPL's Turkey Point Capacity.¹ The Hospitals also would show that FPL plans on operating its nuclear units as long as possible. (R. 11333). The

¹ See <http://www.fplgroup.com>; click on "News"; click on "Florida Power & Light News"; click on item entitled "FPL Announces Operating Licenses Extended For Turkey Point Nuclear Power Plant" (June 7, 2002).

Hospitals also would show, however, that existing depreciation rates assume only a 40-year useful life of the nuclear units, *i.e.*, not the 60-year life that is consistent with the Turkey Point authorized licenses following extension and FPL's stated intentions to operate the plants for 20-years beyond the 40-year life currently assumed for depreciation purposes. (R. 11334). Thus, the Hospitals' expert witness, Mr. Kollen, would testify that it is necessary to correct the mismatch between service lives and depreciation to prevent intergeneration inequities among ratepayers. *Id.* He also would testify that it is necessary to adjust depreciation rates to avoid distorting competition that will occur upon state adoption of legislation to deregulate the market along the lines considered by the Energy Commission. *Id.* The annual effect on FPL's base rates of adjusting depreciation is approximately \$77.5 million. (R. 11336). The issue of whether this adjustment should be made to depreciation rates for FPL's nuclear units thus again requires the resolution of factual issues.

Another factual dispute involves a deferred pension debit that FPL included in working capital. This asset represents the cumulative effect of FPL's net pension income since 1994. (R. 11339).

The Hospitals' expert, Mr. Kollen, in his prepared testimony, testified that the rates that were in effect from 1994 through 2001 reflected the recovery from ratepayers of positive pension expense based upon the test year levels included in

rates in FPL's last rate case in Commission Docket No. 830465-EI. *Id.* However, in his prepared testimony, Mr. Kollen also testified that from 1994 through 2001, FPL experienced net pension income that was retained by FPL for the benefit of shareholders. *Id.* Mr. Kollen testified that it therefore was improper to require ratepayers to pay carrying charges on the asset resulting from the net pension income. *Id.* He thus recommended that the deferred pension debit should be removed from rate base. *Id.* He calculated that removing the deferred pension debit from rate base for the 1994 – 2001 period would reduce FPL's revenue requirement by approximately \$63 million. (R. 11340). As with the issues discussed above, to determine the correct accounting treatment for the deferred pension debit once again requires the resolution of disputed facts – in this case, a determination of the proper way in which to account for the deferred pension debit in view of the circumstances under which it arose.

It goes without saying that the Hospitals believe their position should prevail on each of the matters discussed above. And were the Hospitals to prevail on each of the items discussed above, which are a subset of the reductions the Hospitals are seeking to FPL's base rates, the reduction that would be called for based upon the items that can be quantified at this point would be approximately \$360 million, or \$100 million more than the reduction that was provided for by the settlement.

But whether the Hospitals are right with respect to these items, or whether FPL's filed case is correct, only can be decided based upon a record that will allow the Commission to consider the factual differences asserted by the parties. Thus, the validity of the Commission's action in approving the settlement only can be determined based upon consideration and resolution of disputed facts.

As a result, Section 120.68(7)(a), Florida Statutes, requires that this case be remanded with a direction that the Commission hold a hearing on these issues that involve factual disputes, *i.e.*, a court shall remand a case to an agency where no hearing was provided prior to agency action and the validity of the action depends on disputed facts. Sections 120.68(e)1 and 4, Florida Statutes, also require that this case be remanded because the Commission did not have discretion to deny the Hospitals the hearing they are seeking. *See, e.g., Gugelmin v. Division Of Admin. Hearings*, 2002 Fla. App. LEXIS 6175 (Fla. 4th DCA 2002); *see also Tampa Elec. Co. v. Garcia*, 767 So. 2d 428, 433, *corrected by* 2000, Fla. LEXIS 1901 (2000) *rehearing denied*, 2000 Fla. LEXIS 1902, *cert. denied*, 532 U.S. 905 (2001) ("deference [to Commission orders] cannot be accorded when the commission exceeds its authority."). Further, the violation of the Hospitals' due process rights requires a remand under Section 120.68(7)(e)4, Florida Statutes due to the violation of the Hospitals' constitutional and statutory rights.

II. THE COMMISSION'S FINAL ORDER IS NOT SUPPORTED BY COMPETENT, SUBSTANTIAL EVIDENCE

This Court consistently has held that in reviewing a Commission decision, the Court must determine whether the Commission's "action comports with the essential requirements of law and is supported by substantial competent evidence." *Pan American World Airways, Inc. v. Florida Public Serv. Comm'n*, 427 So. 2d 716, 717 (Fla. 1983), *relying upon Florida Tel. Co. v. Mayo*, 350 So. 2d 775 (Fla. 1977); *see also Teleco Communications Co. v. Clark*, 695 So. 2d 304, 308 (Fla. 1997) ("we will uphold the PSC's findings if competent substantial evidence exists in the record to support those findings."); *see also Schreiber Express, Inc. v. Yarborough*, 257 So. 2d 245 (Fla. 1971).

The Court also has held that it will "not affirm a decision of the Commission if it is arbitrary and unsupported by substantial competent evidence, or in violation of a statutory or a constitutionally guaranteed right." *Citizens of the State of Fla. v. Public Serv. Comm'n*, 425 So. 2d 534, 538 (Fla. 1982). Thus, the Court remanded a case to the Commission where the Commission arbitrarily selected a "fact" from outside the record, finding that such a procedure "plainly violates the notions of agency due process which are embodied in the administrative procedure act." *General Dev. Utils., Inc. v. Hawkins*, 357 So. 2d 408, 409 (Fla. 1978). Similarly,

the Court quashed a Commission order where the Commission's conclusion was not supported by substantial evidence in the record. *Fleet Transport Co. of Fla. v. Mason*, 188 So. 2d 294, 296 (Fla. 1966); *see also Tamiami Trail Tours, Inc. v. Bevis*, 299 So. 2d 22, 24 (Fla. 1974) where the Court quashed a Commission order finding that "the Commission's action cannot be based upon speculation or supposition."

Here, we have a proceeding in which there the Commission's order approving the Stipulation refers to no evidence, substantial or otherwise, as support for the Commission's decision. Rather, the Commission apparently approved the proposed settlement based upon an unstated speculation or supposition that the settlement results in just and reasonable rates. But, the Commission never critically reviewed any evidentiary record materials to make that determination because no evidentiary record ever was compiled given the lack of a hearing. As a result, the circumstances in which this case comes before the Court are analogous to the circumstances the Court faced in *Citizens of Fla. v. Mayo*, 333 So. 2d 1 (1976). In that case, the Commission chose to conduct public hearings in which it promised intervenors, including public counsel, the right to present evidence and to cross-examine a utility's witnesses. However, the Commission did not fulfill its promise. It used procedures that effectively eliminated public counsel's right to

present witnesses or conduct cross-examination. In view of that circumstances, the Court ruled:

By foreclosing public counsel's effective participation in the interim rate process after having assured it, the procedures used by the Commission to grant interim rate relief in this case were plainly improper.

Citizens of Fla. v. Mayo, 333 So. 2d at 18-19. After noting that due process under Section 120.26, Florida Statutes (1973) required each party the opportunity, *inter alia*, to conduct cross-examination, the Court found that, based upon the Commission's failure to follow the prescribed procedures, the Court lacked sufficient information to determine whether the Commission's decision was based upon substantial and competent evidence. *Id.* at 20-21. Thus, it remanded the case to the Commission for further procedures.

The circumstances in *Citizens of Fla. v. Mayo* are remarkably similar to the circumstances here, except that the circumstances here are more egregious. Here, the Hospitals were denied the opportunity to complete discovery and conduct cross-examination, and there is no record that even purports to serve as substantial evidence to support the Commission's action. Thus, because the Commission's order approving the settlement is not supported by substantial evidence, Section 120.68(7)(b), Florida Statutes requires that this case be remanded to provide the

Hospitals the hearing that the Commission had promised and which is guaranteed under Sections 120.569 and 120.57(1), Florida Statutes.

III. A REMAND IS MANDATED WHERE A PROCEDURAL ERROR IS MATERIAL TO THE FAIRNESS OF THE PROCEEDING

Given that the Commission did not afford the Hospitals the hearing that it promised and that is required under Sections 120.569 and 120.57(1), Florida Statutes, Section 120.68(7)(c), Florida Statutes clearly requires a remand of this proceeding to the Commission. Florida courts repeatedly have relied upon Section 120.68(7)(c) to remand cases when agencies failed to follow prescribed procedures. *See, e.g., Creel v. District Bd. Of Trustees*, 785 So. 2d 1285, 1287 (Fla. 5th DCA 2001) (“this court is required to remand to the agency or set aside the agency’s action when ‘the fairness of the proceedings or the correctness of the action may have been impaired by a material error in procedure or a failure to follow prescribed procedure.’ ”); *see also Schrimsher v. School Bd. Of Palm Beach County*, 694 So. 2d 856, 861 (Fla. 4th DCA 1997), *review denied*, 703 So. 2d 477 (1997) (“Reversal is mandated when a procedural error is material to the fairness of the proceedings.”); *see also Ryan v. Florida Dep’t. of Bus. & Prof’l Regulation*, 798 So. 2d 36, 38 (Fla. 4th DCA 2001).

IV. A REMAND IS MANDATED WHERE CORRECTION OF AN ERROR OF LAW COMPELS A PARTICULAR ACTION

The Commission's failure to afford the Hospitals the hearing guaranteed by Sections 120.569 and 120.57, Florida Statutes, also requires a remand of this proceeding under Section 120.68(7)(d), Florida Statutes. That section requires a remand where an "agency has erroneously interpreted a provision of law and a correct interpretation compels a particular action." Further, as the court held in *Schrimsher v. School Bd.*, 694 So. 2d at 861, "[u]nlike with procedural errors, we may reverse any erroneous interpretation of law, whether or not the error rises to a level of materiality, so long as the correct interpretation compels a particular action."; *see also Parlato v. Secret Owners Ass'n.*, 793 So. 2d 1158 (Fla. 1st DCA 2001).

Here, Sections 120.569 and 120.57, clearly provided the Hospitals the right to a hearing and the right to conduct cross-examination. The Commission's failure to afford the Hospitals those rights was a clear error of law. And because a correct interpretation of the law would provide the Hospitals those opportunities, Section 120.68(7)(d), Florida Statutes, requires that the case be remanded with a direction compelling the action that is required by statute, *i.e.*, a hearing with full rights of cross-examination.

**V. THE COMMISSION'S ORDER APPROVING THE SETTLEMENT
IS NOT SUPPORTED BY FINDINGS OF FACT**

Remand of this case also is required because the Commission's order is not supported by findings of fact. That failure to make findings of fact is another instance of clear error.

In *International Minerals & Chem. Corp. v. Mayo*, 336 So. 2d 548, 552-53 (Fla. 1976), this Court held that:

[T]he PSC is required to make findings of fact in rate proceedings. *Village of North Palm Beach v. Mason*, 167 So. 2d 721 (Fla. 1964); *Central Truck Lines, Inc. v. King*, 146 So. 2d 370 (Fla. 1962) The requirement of explicit fact findings makes for more careful consideration by the Commission, helps assure that this Court does not usurp the PSC's fact finding prerogatives, and otherwise facilitates review of Commission orders by this Court. The more detailed the PSC's findings are, the more readily these important purposes are served.

Emphasis added.

The Court's holding in *International Minerals* relied upon the Court's earlier decision in *Central Truck Lines v. King* where the Court reversed a Commission decision based upon the Commission's failure to make findings of fact. As the Court stated there, "findings of fact on essential although collateral issues which might justify the entry of a final order must be made" 146 So. 2d at 373 n. 1. In rendering that decision, the Court relied upon the opinion of the United States

Supreme Court in *State of Fla. v. United States*, 282 U.S. 194, 51 S. Ct. 119 (1931) requiring findings of fact.

Here, there are no findings of fact whatsoever nor could there be based upon the flawed procedures that were used by the Commission. This provides yet an additional reason to remand this case.

CONCLUSION

As shown above, Sections 120.569 and 120.57, Florida Statutes, give the Hospitals the right to a hearing in this case. However, because the Commission did not afford the Hospitals a hearing, the Commission did not have any evidentiary record to resolve key issues that the Commission itself had identified as requiring a review of FPL's rates in the first place. Accordingly, the Court should remand this case to the Commission with directions that the Commission:

(1) allow the Hospitals an opportunity for full discovery, (2) thereafter, afford the Hospitals a hearing and (3) comply with all procedural requirements specified in Section 120.57, in particular Section 120.57(2)(b).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark F. Sundback', written over a horizontal line.

Mark F. Sundback

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July 2, 2002

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by United States mail this 2nd day of July, 2002 to the following parties of record:

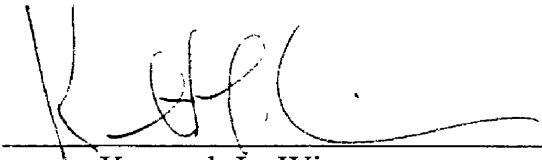
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John W. McWhirter, Jr., Esquire* Attorney for FIPUG McWhirter Reeves 400 North Tampa Street, Suite 2450 Tampa, Florida 33601-3350	Mr. Jack Shreve* John Roger Howe Office of Public Counsel c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, Florida 32399-1400
Linda Quick* South Florida Hospital and Healthcare 6363 Taft Street Hollywood, FL 33024	William Cochran Keating, IV, Esquire* Staff Counsel Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850

INTERESTED PARTIES:

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Mr. Paul Lewis, Jr. Florida Power Corporation 106 East College Avenue, Suite 800 Tallahassee, Florida 32301-7740	Jon C. Moyle, Esquire Cathy M. Sellers, Esquire 118 North Gadsden Street Tallahassee, FL 32301
CPV Atlantic, Ltd 145 NW Central Park Plaza, Suite 101 Port Saint Lucie, FL 34986	Frederick M. Bryant Florida Municipal Power Agency 2061-2 Delta Way Tallahassee, FL 32303
Steven H. McElhaney 2448 Tommy's Turn Oviedo, FL 32766	Homer O. Bryant 3740 Ocean Beach Blvd., Unit 704 Cocoa Beach, FL 32931
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Myron Rollins Black & Veatch Post Office Box 8405 Kansas City, MO 64114	Jennifer May-Brust, Esq. Colonial Pipeline Company 945 East Paces Ferry Road Atlanta, GA 30326
G. Garfield/R. Knickerbocker/S. Myers Day, Berry Law Firm CityPlace 1 Hartford, CT 06103-3499	Michelle Hershel Florida Electric Cooperatives Association, Inc. 2916 Apalachee Parkway Tallahassee, FL 32301
Thomas J. Maida/N. Wes Strickland Foley & Lardner Law Firm 300 East Park Avenue Tallahassee, FL 32301	Bruce May, Esquire Holland Law Firm Post Office Drawer 810 Tallahassee, FL 32302-0810
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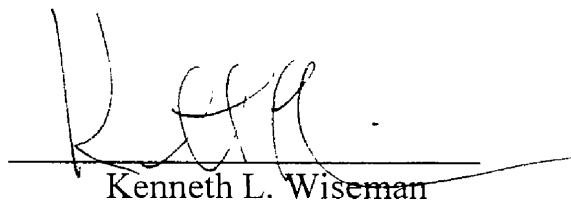
<p>Daniel Doorakian Moyle, Flanigan, Katz, Raymond & Sheehan, P.A. The Perkins House 118 North Gadsden Street Tallahassee, Florida 32301</p>	<p>Peter Anatonacci GRAY, HARRIS & ROBINSON, P.A. 301 South Bronough Street, Suite Tallahassee, Florida 32302-3189</p>
<p>Dawson Glover, III Town of Sewall's Point Road One South Sewall's Point Road Sewall's Point, Florida 34996</p>	<p>John Attaway Publix Supermarkets, Inc. P.O. Box 32015 Lakeland, Florida 33802-2018</p>
<p>David Owen Asst. County Attorney P.O. Box 398 Ft. Myers, Florida 33902-0398</p>	<p>Mr. Paul J. Chymiy NUI Energy, Inc. 550 Route 202-206 Bedminster, NJ 07921-0760</p>
<p>Blanca S. Bayo, Director Division of the Commission Clerk and Administrative Services Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850</p>	<p>David E. Smith Attorney Supervisor Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850</p>



 Kenneth L. Wiseman

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this brief was prepared using Times New Roman
14-point font, which is proportionately spaced.



Kenneth L. Wiseman

IN THE SUPREME COURT OF FLORIDA

Case No. SC02-1023

On Appeal from a Final Order of
The Florida Public Service Commission

**SOUTH FLORIDA HOSPITAL AND
HEALTHCARE ASSOCIATION, et al.**

Appellants,

v.

LILA A. JABER, et al.,

Appellees.

**APPENDICES TO
INITIAL BRIEF OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION, et al.**

Mark F. Sundback
Kenneth L. Wiseman
Andrews & Kurth, L.L.P.
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Miriam O. Victorian
Andrews & Kurth, Mayor, Day,
Caldwell and Keeton, L.L.P.
700 Louisiana Street
Houston, Texas 77002

Counsel for Appellants

DOCUMENT NUMBER-DATE

06868 JUL-38

FPSC-COMMISSIONER

APPENDIX A

Appendix A

SUMMARY OF EVIDENCE THE HOSPITALS WOULD HAVE PRESENTED TO SUPPORT A RATE REDUCTION OF AT LEAST \$535 MILLION, *i.e.*, MORE THAN DOUBLE THE RATE REDUCTION PROVIDED BY THE SETTLEMENT APPROVED BY THE COMMISSION¹

<u>Summary of Evidence</u>	<u>Effect on Annual Cost of Service</u>
A. The revenue refund due to the effects of the 1999 Rate Agreement should be removed from the calculation of rates.	\$34.086 million reduction
B. Depreciation expenses for Turkey Point 3 and 4 and St. Lucie 1 and 2 nuclear plants should be reduced to reflect 20-year service life extensions.	\$77.485 million reduction
C. The special nuclear and fossil depreciation allowed pursuant to the 1999 Rate Agreement should be amortized over three years.	\$53.574 million reduction
D. The deferred pension debit included by the Company in working capital should be removed.	\$62.873 million reduction
E. A claimed increase in storm damage expense should be eliminated.	\$30.315 million reduction

¹ Items A – I would be established in the first instance through the testimony of the Hospitals expert witness, Mr. Lane Kollen. Items J and K would be established through cross-examination of FPL's witnesses.

F. Rate of return should be adjusted to reflect internal funding of storm damage reserve treated as a rate base reduction.	\$31.099 million reduction
G. Reduce projected growth in operation and maintenance expense, excluding the proposed increase in storm damage expense, from 9.2% to 4.6%.	\$47.432 million reduction
H. There should be an adjustment to FPL's overall return for the accumulated deferred income tax effects of rate base adjustments.	\$34.140 million increase
I. Limit the common equity in FPL's capitalization structure to 50%, quantified on a traditional basis.	\$172.545 million reduction
J. The midpoint return on equity proposed by FPL's witness, Dr. Olivera, should be reduced by 100 to 200 basis points.	\$47 million reduction
K. FPL's ratepayers should not be required to pay for the cost overrun on the Sanford repowering project.	\$13 million reduction
Total effect on annual cost of service	\$535.269 million reduction

ATTACHMENT A

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K

X Annual Report pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

for the fiscal year ended March 31, 1995

Transition report pursuant to Section 13 or 15(d) of
the Securities Exchange Act of 1934 for the transaction

period from to

Commission File Number: 0-16014

ADELPHIA COMMUNICATIONS CORPORATION

(Exact name of registrant as specified in its charter)

DELAWARE 23-2417713

(State or other jurisdiction of incorporation or
organization) (I.R.S. Employer Identification No.)

5 West Third Street P.O. Box 472 Coudersport,
Pennsylvania 16915

(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: 814-274-9830

Securities registered pursuant to Section 12(b) of the Act: None.

Securities registered pursuant to Section 12(g) of the Act:

Class A Common Stock, \$.01 par value.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and 2) has been subject to such filing requirements for the past 90 days.

R. 11695

Yes X No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Aggregate market value of outstanding Class A Common Stock \$.01 par value, held by non-affiliates of the Registrant at June 26, 1995 was \$76,870,845 based on the closing sale price as computed by the NASDAQ National Market System as of that date. For purposes of this calculation only, affiliates are deemed to be directors and executive officers of the Registrant.

Number of outstanding shares of Class A Common Stock, \$.01 par value, at June 26, 1995 was 15,364,009.

Number of outstanding shares of Class B Common Stock, \$.01 par value, at June 26, 1995 was 10,944,476.

Documents Incorporated by Reference

Portions of the Proxy Statement for the 1995 Annual Meeting of Stockholders are incorporated by reference into Part III hereof.

PART I

ITEM 1. BUSINESS (Dollars in thousands)

Introduction

Adelphia Communications Corporation ("Adelphia" and, collectively with its subsidiaries, the "Company") is the seventh largest cable television operator in the United States. As of March 31, 1995, cable systems owned or managed by the Company (the "Systems") in the aggregate passed 2,268,501 homes and served 1,579,437 basic subscribers who subscribed for 794,624 premium service units.

The Company's owned cable systems (the "Company Systems") are located in ten states and are organized into seven regional clusters: Western New York, Virginia, Western Pennsylvania, New England, Eastern Pennsylvania, Ohio and Coastal New Jersey. The Company Systems are located primarily in suburban areas of large and medium-sized cities within the 50 largest television markets ("areas of dominant influence" or "ADIs," as measured by The Arbitron Company). At March 31, 1995, the Company Systems passed 1,340,808 homes and served 975,066 basic subscribers.

The Company owns a 50% voting interest and non-voting preferred limited partnership interests entitling the Company to a 16.5% priority return in Olympus Communications, L.P. ("Olympus"). Olympus is a joint venture which owns cable systems (the "Olympus Systems") primarily located in some of the fastest growing areas of Florida. The Olympus Systems in Florida form a substantial part of an eighth regional cluster, Southeastern Florida. The Company is the managing general partner of Olympus. As of March 31, 1995, the Olympus Systems passed 512,052 homes and served 306,317 basic subscribers. See "Management's Discussion and Analysis of Financial Condition and Results of

R. 11696

including customer service, service call dispatching, marketing, human resources, advertising sales and government relations into regional offices. Each regional office has a related technical center which contains the facilities necessary for the Systems' technical functions, including construction, installations and system maintenance and monitoring. Consolidating customer service functions into regional offices allows the Company to provide customer service through better training and staffing of customer service representatives, and by providing more advanced telecommunications and computer equipment and software to its customer service representatives than would otherwise be economically feasible in smaller systems.

The Company considers technological innovation to be an important component of cost-effective improvement of its product and customer satisfaction. Through the use of fiber optic cable and other technological improvements, the Company has increased system reliability, channel capacity and its ability to deliver advanced cable television services. These improvements have enhanced customer service, reduced operating expenses and allowed the Company to introduce additional services, such as impulse-ordered pay-per-view programming, which expand customer choices and increase Company revenues. The Company has developed new cable construction architecture which allows it to readily deploy fiber optic cable in its systems. The Company has replaced approximately 24% of the total installed trunk cable for the Systems with fiber optic cable and has used fiber optic cable in all of its rebuilding projects and principally all of the Systems' line extensions. In addition, the Company has installed over 690 miles of fiber optic plant for point-to-point applications such as connecting or eliminating headends or microwave link sites. Management believes that the Company is among the leaders of the cable industry in the deployment of fiber optic cable.

Development of the Systems

The Company has focused on acquiring and developing systems in markets which have favorable historical growth trends. The Company believes that the strong household growth trends in its Systems' market areas are a key factor in positioning itself for future growth in basic subscribers.

Since 1982, the Company has grown principally by acquiring new cable systems and by developing existing cable systems. On June 16, 1994, Adelphia invested \$34,000 for a majority equity position in TMC Holdings Corporation ("THC"), the parent of Tele-Media Company of Western Connecticut. THC owns cable television systems serving approximately 43,000 subscribers in Western Connecticut. On June 30, 1994, Adelphia acquired from Olympus 85% of the common stock of Northeast Cable, Inc. ("Northeast Cable") for a purchase price of \$31,875. Northeast Cable owns cable television systems serving approximately 36,500 subscribers in Eastern Pennsylvania. On January 10, 1995, Adelphia issued 399,087 shares of Class A Common Stock in connection with the merger of a wholly-owned subsidiary of Adelphia into Oxford Cablevision, Inc. ("Oxford"), one of the Benjamin Terry family (the "Terry Family") cable systems. Oxford serves approximately 4,200 subscribers located in the North Carolina counties of Granville and Warren. On January 31, 1995, the Company acquired Tele-Media of Martha's Vineyard, L.P. for \$11,775, a cable system serving approximately 7,000 subscribers in Martha's Vineyard, Massachusetts. On February 28, 1995, ACP Holdings, Inc., a wholly owned subsidiary and managing general partner of Olympus, certain shareholders of Adelphia, Olympus and various Telesat Entities ("Telesat"), wholly-owned subsidiaries of FP&L Group, Inc., entered into an investment agreement whereby Telesat agreed to contribute to Olympus substantially all of the assets associated with certain cable television systems, serving approximately 50,000 subscribers in southern Florida, in exchange for general and limited partner interests and newly issued preferred limited partner interests in Olympus.

The Company will continue to evaluate new opportunities that allow for the expansion of its business through the acquisition of additional cable television systems in geographic proximity to its existing

ATTACHMENT B

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 PUBLIC DOCUMENT COUNT: 6
 CONFORMED PERIOD OF REPORT: 19991231
 FILED AS OF DATE: 20000330

FILER:

COMPANY DATA:

COMPANY CONFORMED NAME:	OLYMPUS COMMUNICATIONS LP
CENTRAL INDEX KEY:	0000861255
STANDARD INDUSTRIAL CLASSIFICATION:	CABLE & OTHER PAY TELEVISION
IRS NUMBER:	251622615
STATE OF INCORPORATION:	DE
FISCAL YEAR END:	1231

FILING VALUES:

FORM TYPE:	10-K405
SEC ACT:	
SEC FILE NUMBER:	333-19327
FILM NUMBER:	588271

BUSINESS ADDRESS:

STREET 1:	ONE NORTH MAIN STREET
STREET 2:	P O BOX 472
CITY:	COUDERSPORT
STATE:	PA
ZIP:	16915-1141
BUSINESS PHONE:	8142749830

MAIL ADDRESS:

STREET 1:	ONE NORTH MAIN STREET
STREET 2:	P O BOX 472
CITY:	COUDERSPORT
STATE:	PA
ZIP:	16915-1141

FILER:

COMPANY DATA:

COMPANY CONFORMED NAME:	OLYMPUS CAPITAL CORP
CENTRAL INDEX KEY:	0000754019
STANDARD INDUSTRIAL CLASSIFICATION:	CABLE & OTHER PAY TELEVISION
IRS NUMBER:	232868925
STATE OF INCORPORATION:	DE

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PART I

ITEM 1. BUSINESS

(Dollars in thousands)

Introduction

Olympus Communications, L.P. ("Olympus" and, collectively with its subsidiaries, the "Company") is a limited partnership between ACP Holdings, Inc. and ACC Holdings II, LLC, wholly-owned subsidiaries of Adelphia Communications Corporation (together with its subsidiaries, "Adelphia"). Prior to October 1, 1999, the Company was a joint venture limited partnership between Adelphia and subsidiaries of FPL Group, Inc. (together with its subsidiaries "FPL Group"). On that date, Olympus transferred all outstanding common stock of its wholly-owned subsidiary, West Boca Security, Inc. ("WB Security") to FPL Group in exchange for FPL Group's partnership interest in Olympus. Olympus had assigned a \$108,000 note receivable from a wholly-owned subsidiary to WB Security prior to the transfer of common stock to FPL Group. The only asset of WB Security was this note which constituted the consideration paid for the redemption of the FPL Group partnership interests in Olympus and accrued priority return due to FPL Group. The Company's operations consist of providing telecommunications services primarily over its networks, which are commonly referred to as broadband networks because they can transmit large quantities of voice, video and data by way of digital or analog signals. Adelphia is a leader in the telecommunications industry with cable television and local telephone operations. As of December 31, 1999, Adelphia owned and managed cable television systems (including Olympus) with broadband networks that passed in front of 7,902,707 homes and served 5,124,594 basic subscribers.

The Company operates one of the largest contiguous cable systems located in

some of the fastest growing markets in Florida. As of December 31, 1999, the Company's cable system (the "System") passed in front of 974,861 homes and served 651,308 basic subscribers. In addition to traditional analog cable television, the Company offers a wide range of telecommunication services including digital cable television, high speed data and Internet access, electronic security monitoring, paging and telephony.

The Private Securities Litigation Reform Act of 1995 provides a "safe harbor" for forward-looking statements. Certain information included in this Annual Report on Form 10-K, including Management's Discussion and Analysis of Financial Condition and Results of Operations, is forward-looking, such as information relating to the effects of future regulation, future capital commitments and the effects of competition. Such forward-looking information involves important risks and uncertainties that could significantly affect expected results in the future from those expressed in any forward-looking statements made by, or on behalf of, the Company. These "forward looking statements" can be identified by the use of forward-looking terminology such as "believes", "expects", "may", "will," "should," "intends" or "anticipates" or the negative thereof or other variations thereon or comparable terminology or by discussions of strategy that involve risks and uncertainties. These risks and uncertainties include, but are not limited to, uncertainties relating to economic conditions, acquisitions and divestitures, the availability and cost of capital, government and regulatory policies, the pricing and availability of equipment, materials, inventories and programming, product acceptance, technological developments, and changes in the competitive environment in which the Company operates. Persons reading this Annual Report on Form 10-K are cautioned that forward-looking statements herein are only predictions, that no assurance can be given that the future results will be achieved, and that actual events or results may differ materially as a result of the risks and uncertainties facing the Company.

Business

Video Services

Cable television systems receive a variety of television, radio and data signals transmitted to receiving sites ("headends") by way of off-air antennas, microwave relay systems and satellite earth stations. Signals are then

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modulated, amplified and distributed primarily through fiber optic and coaxial cable to subscribers, who pay fees for the service. Cable television systems are generally constructed and operated pursuant to non-exclusive franchises awarded by state or local government authorities for specified periods of time.

Cable television systems typically offer subscribers a package of basic video services consisting of local and distant television broadcast signals, satellite-delivered non-broadcast channels (which offer programming such as news, sports, family entertainment, music, weather, shopping, etc.) and public, governmental and educational access channels.

In addition, premium service channels, which provide movies, live and taped concerts, sports events and other programming, are offered for an extra monthly charge. At December 31, 1999 over 98% of subscribers of the System were also offered pay-per-view programming, which allows the subscriber to order special events or movies and to pay on a per event basis. Local,

instance, although the PSC has mandated that competitive providers file certain price lists, the PSC has resisted allowing competitive carriers to file full tariffs, which would deny them the ability to rely on terms and conditions normally included in such tariffs and required instead reliance on individual contracts. In addition, the PSC conducts proceedings and rulemakings to address local competition issues including pricing of unbundled network elements and wholesale services available for resale. Finally, pursuant to its obligation under the 1996 Act, the PSC also reviews or arbitrates interconnection agreement negotiations.

Based on the foregoing, the Company believes that the Florida Act and actions of the PSC to date reflect a generally favorable legal and regulatory environment for new entrants, such as Olympus, to intrastate telecommunications in Florida.

ITEM 2. PROPERTIES

The Company's principal physical assets consist of cable television operating plant and equipment, including signal receiving, encoding and decoding devices, headends and distribution systems and subscriber house drop equipment for each of its cable television systems. The signal receiving apparatus typically includes a tower, antenna, ancillary electronic equipment and earth stations for reception of satellite signals. Headends, consisting of associated electronic equipment necessary for the reception, amplification and modulation of signals, are located near the receiving devices. The Company's distribution system consists primarily of coaxial and fiber optic cables and related electronic equipment. Subscriber devices consist of decoding converters. The physical components of cable television systems require maintenance and periodic upgrading to keep pace with technological advances.

The Company's cables and related equipment are generally attached to utility poles under pole rental agreements with local public utilities, although in some areas the distribution cable is buried in underground ducts or trenches. See "Legislation and Regulation--FCC Regulation."

The Company owns or leases parcels of real property for signal reception sites (antenna towers and headends), microwave facilities and business offices in each of its market areas, and owns most of its service vehicles.

Substantially all of the assets of Olympus' subsidiaries are subject to encumbrances as collateral in connection with the Company's credit arrangements, either directly with a security interest or indirectly through a pledge of the stock or partnership interests in the respective subsidiaries. See Note 3 to the Olympus Communications, L.P. consolidated financial statements. The Company believes that its properties, both owned and leased, are in good operating condition and are suitable and adequate for the Company's business operations.

ITEM 3. LEGAL PROCEEDINGS

There are no material pending legal proceedings, other than routine litigation incidental to the business, of which the Company or any of its subsidiaries is a part or to which any of their property is subject.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the fourth quarter of 1999.

Agreement") and agreed to be governed by the provisions of the Delaware Revised Uniform Limited Partnership Act and the Partnership Agreement;

<PAGE>

WHEREAS, the Partners desire to execute this Third Amendment to the Second Amended and Restated Limited Partnership Agreement to reflect the amendment of certain provisions of the Partnership Agreement; and

WHEREAS, each of the capitalized terms not defined herein shall have the meaning ascribed to them in the Partnership Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein and intending to be legally bound, the Partners agree as follows:

1. The Partnership Agreement is hereby amended by adding the following new Section 12.12:

Redemption of Partnership Interests. Notwithstanding the

provisions of Section 17-702(d) of the Delaware Revised Uniform Partnership Act, upon the Partnership's acquisition of an interest in the Partnership by purchase, redemption or otherwise, the Managing General Partner may determine that any such partnership interests will not be cancelled.

2. This Third Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Delivery of executed signature pages hereof by facsimile transmission shall constitute effective and binding execution and delivery hereof.

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<PAGE>

IN WITNESS WHEREOF, the undersigned have executed this Third Amendment to the Second Amended and Restated Limited Partnership Agreement as of the date first above written.

MANAGING GENERAL PARTNER:

ACP HOLDINGS, INC.

By: /s/ Michael C. Mulcahey

Name: Michael C. Mulcahey
Title: Assistant Treasurer

GENERAL PARTNER:

CABLE GP, INC.

By: /s/ Dennis P. Coyle

Name: Dennis P. Coyle
Title: President

LIMITED PARTNER:

CABLE GP, INC.

By: /s/ Dennis P. Coyle

Name: Dennis P. Coyle
Title: President

PREFERRED LIMITED PARTNERS:

ACP HOLDINGS, INC.

By: /s/ Michael C. Mulcahey

Name: Michael C. Mulcahey
Title: Assistant Treasurer

-3-

<PAGE>

CABLE GP, INC.

By: /s/ Dennis P. Coyle

Name: Dennis P. Coyle
Title: President

SPECIAL LIMITED PARTNER:

CABLE GP, INC.

By: /s/ Dennis P. Coyle

Name: Dennis P. Coyle
Title: President

SENIOR LIMITED PARTNER:

CABLE GP, INC.

By: /s/ Dennis P. Coyle

Name: Dennis P. Coyle
Title: President

-4-

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R. 11704

Bruce I. Booken, Esquire
Buchanan Ingersoll Professional Corporation
301 Grant Street
One Oxford Centre, 20th Floor
Pittsburgh, PA 15219
Fax: 412-562-1041

To Cable GP:

700 Universe Boulevard
Juno Beach, FL 33408
Attn: Dennis P. Coyle
Fax: 561-694-4640

Effectiveness of Notice. Notice shall be deemed received the same day

(when delivered personally), three (3) days after mailing (when sent by registered or certified mail), and the next business day (when sent by facsimile transmission or when delivered by overnight courier). Any Party may change the address of the Party to which all

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communications and notices may be sent hereunder by addressing notices of such change in the manner provided.

Article 9 LAWS GOVERNING

The construction and interpretation of this Agreement and the rights of the Parties shall be governed by the laws of the State of Florida without regard to its conflicts of laws provisions.

Article 10 MISCELLANEOUS

Survival of Representations and Warranties. Notwithstanding any investigation

and review made by Olympus or Cable GP pursuant to this Agreement, Olympus and Cable GP agree that all of the representations, warranties, covenants and agreements of Olympus and Cable GP contained in this Agreement or in any other Closing Document shall survive the making of this Agreement, any investigation or review made by or on behalf of the Parties hereto and the Closing hereunder; provided that the representations and warranties contained in this Agreement shall expire and be extinguished one year after the Closing Date except for representations and warranties relating to title and ownership, which shall survive forever.

Fair Market Value of Olympus Assets. The Parties hereto acknowledge and agree

that, as of the Closing Date, the current fair market value of the West Boca Shares is \$108,000,000. Olympus and Cable GP shall agree, within seventy-five (75) days after the Closing Date, upon a schedule showing the fair market values as of the Closing Date of the consolidated Olympus and subsidiary group assets by category (including, but not limited to, the following categories: cash, accounts receivable, tangible real property, tangible personal property, franchise costs and other intangible assets (defined as the assets comprising total intangible assets excluding franchise costs)), and schedules supporting

ATTACHMENT C

**SPECIAL
EDITION**

Includes
Profile for
Security
Analysts

FPL Group 1999 annual report

Building for the future



plants, for \$866 million. The purchase price was based on an agreement, subject to regulatory approvals, reached with CMP in January 1998. In October 1998, the FERC struck down transmission rules that had been in effect in New England since the 1970s. FPL Energy filed a lawsuit in November 1998 requesting a declaratory judgment that CMP could not meet the essential terms of the purchase agreement and, as a result, FPL Energy should not be required to complete the transaction. FPL Energy believed these FERC rulings regarding transmission constituted a material adverse effect under the purchase agreement because of the significant decline in the value of the assets caused by the rulings. The request for declaratory judgment was denied in March 1999 and the acquisition was completed on April 7, 1999. The acquisition was accounted for under the purchase method of accounting and the results of operating the Maine plants have been included in the consolidated financial statements since the acquisition date.

The FERC rulings regarding transmission, as well as the announcement of new entrants into the market and changes in fuel prices since January 1998, resulted in FPL Energy recording a \$176 million pre-tax impairment loss to write-down the fossil assets to their fair value, which was determined based on a discounted cash flow analysis. The impairment loss reduced FPL Group's 1999 results of operations and earnings per share by \$104 million and \$0.61 per share, respectively.

Most of the remainder of the purchase price was allocated to the hydro operations. The hydro plants and related goodwill are being amortized on a straight-line basis over the 40-year term of the hydro plant operating licenses.

10. DIVESTITURE OF CABLE INVESTMENTS

In January 1999, an FPL Group Capital subsidiary sold 3.5 million common shares of Adelphia Communications Corporation (Adelphia) stock and in October 1999 had its one-third ownership interest in a cable limited partnership redeemed, resulting in after-tax gains of approximately \$96 million and \$66 million, respectively. Both investments had been accounted for on the equity method.

11. SETTLEMENT OF LITIGATION

In October 1999, FPL and the Florida Municipal Power Agency (FMPA) entered into a settlement agreement pursuant to which FPL agreed to pay FMPA a cash settlement; FPL agreed to reduce the demand charge on an existing power purchase agreement; and FPL and FMPA agreed to enter into a new power purchase agreement giving FMPA the right to pur-

chase limited amounts of power in the future at a specified price. FMPA agreed to dismiss the lawsuit with prejudice, and both parties agreed to exchange mutual releases. The settlement reduced FPL's 1999 net income by \$42 million.

12. COMMITMENTS AND CONTINGENCIES

Commitments — FPL has made commitments in connection with a portion of its projected capital expenditures. Capital expenditures for the construction or acquisition of additional facilities and equipment to meet customer demand are estimated to be approximately \$3.1 billion for 2000 through 2002. Included in this three-year forecast are capital expenditures for 2000 of approximately \$1.3 billion. As of December 31, 1999, FPL Energy has made commitments totaling approximately \$72 million, primarily in connection with the development of an independent power project. FPL Group and its subsidiaries, other than FPL, have guaranteed approximately \$680 million of purchased power agreement obligations, debt service payments and other payments subject to certain contingencies.

Insurance — Liability for accidents at nuclear power plants is governed by the Price-Anderson Act, which limits the liability of nuclear reactor owners to the amount of the insurance available from private sources and under an industry retrospective payment plan. In accordance with this Act, FPL maintains \$200 million of private liability insurance, which is the maximum obtainable, and participates in a secondary financial protection system under which it is subject to retrospective assessments of up to \$363 million per incident at any nuclear utility reactor in the United States, payable at a rate not to exceed \$43 million per incident per year.

FPL participates in nuclear insurance mutual companies that provide \$2.75 billion of limited insurance coverage for property damage, decontamination and premature decommissioning risks at its nuclear plants. The proceeds from such insurance, however, must first be used for reactor stabilization and site decontamination before they can be used for plant repair. FPL also participates in an insurance program that provides limited coverage for replacement power costs if a nuclear plant is out of service because of an accident. In the event of an accident at one of FPL's or another participating insured's nuclear plants, FPL could be assessed up to \$50 million in retrospective premiums.

In the event of a catastrophic loss at one of FPL's nuclear plants, the amount of insurance available may not be adequate to cover property damage and other expenses incurred. Uninsured losses, to the extent not recovered through rates, would be borne by FPL and could have a material adverse effect on FPL Group's financial condition.

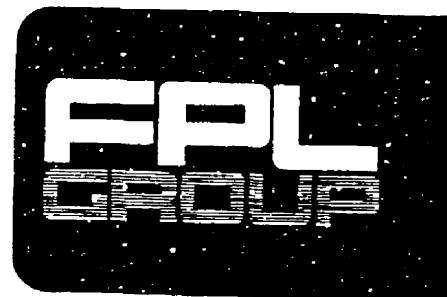
ATTACHMENT D

**SPECIAL
EDITION**

Includes
Profile for
Security
Analysts

FPL Group 1999 annual report

Building for the future



Network

At the beginning of 2000, FPL Group launched a new subsidiary, FPL FiberNet LLC, to sell fiber-optic network capacity on a wholesale basis to telephone, cable television, Internet service providers and other telecommunications companies in Florida.

The subsidiary acquired its existing 1,600-mile, long-haul, inter-city fiber network from FPL and has begun to augment the network by building and operating intra-city networks in major metropolitan areas in Florida. FPL is also a customer of the subsidiary, enjoying the same reliable, low-cost telecommunications services as in the past.

FPL FiberNet's inter-city network, which has been in operation for 12 years, travels from Miami to Jacksonville on the east coast of Florida; Lake City in north Florida; and Tampa south on the west coast.

Construction of an intra-city network in Miami has been completed and similar projects are underway in Fort Lauderdale, Tampa and West Palm Beach. FPL FiberNet expects to invest approximately \$75 million toward its metropolitan network expansion in 2000 and plans to complete construction of 15 metropolitan networks in Florida by 2002.

FPL FiberNet expects sales to be between \$30 and \$40 million in its first year of operation. The business, which is already profitable, is expected to be an earnings enhancer near-term, but is not expected to provide significant contributions to earnings growth for several years.

The fiber-optic network was originally developed in the late 1980s to provide internal telecommunications services to support company operations. In 1996, FPL began selling excess fiber-optic capacity along its network to the major telecommunications companies operating in Florida. Since its launch, FPL FiberNet has expanded its customer base to include Internet service providers and other telecommunications companies, who will take advantage of the expanded network.



Profitable Connections

FPL FiberNet expects to complete construction of 15 metropolitan networks in Florida by 2002.

ATTACHMENT E

ANALYSIS OF DIVERSIFICATION ACTIVITY
Individual Affiliated Transactions in Excess of \$500,000

FLORIDA POWER & LIGHT COMPANY
for the Year Ended December 31, 1995

Provide information regarding individual affiliated transactions in excess of \$500,000 Recurring monthly affiliated transactions which exceed \$500,000 per month should be reported annually in the aggregate. However, each land or property sales transaction even though similar sales recur, should be reported as a "non-recurring" item for the period in which it occurs.			
Line No	Name of Affiliate (a)	Description of Transaction (b)	Dollar Amount (c)
1	FPL Group, Inc.	Equity Contributions to FPL	\$280,000,000
2	FPL Group, Inc.	Payroll Taxes	\$186,496,848
3	FPL Group, Inc.	Florida Income Tax Payments	\$47,900,000
4	FPL Group, Inc.	Federal Income Tax Payments	\$430,371,405
5	FPL Group, Inc.	Thrift Plan Company Match Payments	\$17,561,800
6	FPL Group, Inc.	Common Dividend Payments	\$557,922,723
7	FPL Group, Inc.	FPL Group Billing 1/95-12/95	\$7,926,801
8	FPL Group, Inc.	Federal Unemployment Tax Payments	\$671,829
9	FPL Group, Inc.	IRS Refund	\$15,529,808
10			.
11	FPL Group Foundation, Inc.	Charitable Contribution	\$1,425,000
12			
13	Land Resource Investment Co. (LRIC)	Property Taxes	\$3,229,107
14	Land Resource Investment Co. (LRIC)	Management Fee	\$6,303,783
15	Land Resource Investment Co. (LRIC)	Adjustment to the 1994 Transfer of Juno Beach Building "D" and related facilities from FPL to LRIC	(\$3,341,304)
16			
17	Land Resource Investment Co. (LRIC)	Transfer of the System Control Center from FPL to LRIC	\$18,564,878
18			
19			
20	Land Resource Investment Co. (LRIC)	Transfer of improvements to the Lejeune/Flagler Office Building from FPL to LRIC	\$516,513
21			
22			
23	KPB Financial Corp.	Storm & Property Reserve Fund Contributions	\$47,521,058
24	KPB Financial Corp.	Sale of Accounts Receivable to FPL	\$350,020,000
25	KPB Financial Corp.	Purchase of Accounts Receivable from FPL	\$350,000,000
26			
27	Alandco Inc.	Sale of land adjacent to the Miami Central Service Center to FPL	\$600,000
28			
29			
30			
31			
32			

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ANALYSIS OF DIVERSIFICATION ACTIVITY
Assets or Rights Purchased from or Sold to Affiliates

FLORIDA POWER & LIGHT COMPANY
For the Year Ended December 31, 1996

Provide a summary of affiliated transactions involving asset transfers or the right to use assets							
Name of Affiliate	Description of Asset or Right	Cost/Orig Cost	Accumulated Depreciation	Net Book Value	Fair Market Value	Purchase Price	True Passed Yes/No
<u>Purchases/Transfers from Affiliates:</u>							
KPB Financial Corp (KPB)	Accounts Receivable	\$350,000,000	\$0	\$350,000,000	-	\$350,020,000 (A)	YES
Land Resources Investment Co. (LRIC)	North Dade District Office Land	\$1,185,399	\$0	\$1,185,399	-	\$1,185,399	YES
Land Resources Investment Co.	Delray Beach District Office Site	\$646,218	\$0	\$646,218	-	\$646,218	YES
Land Resources Investment Co.	Indiantown Warehouse	\$496,949	\$192,053	\$294,896	-	\$294,896	YES
Land Resources Investment Co.	Hollywood Service Center	\$170,336	\$2,286	\$168,050	-	\$168,050	YES
Land Resources Investment Co.	Desoto Plant Site	\$147,788	\$0	\$147,788	-	\$147,788	YES
Total						\$352,462,351	
(A) Includes \$20,000 administrative fee paid to KPB							
<u>Sales/Transfers to Affiliates:</u>							
KPB Financial Corp	Accounts Receivable	\$375,000,000	\$0	\$375,000,000	-	Sales Price \$375,000,000	YES
Land Resources Investment Co.	Improvements to General Office	\$528,956	\$5,547	\$523,409	-	\$523,409	YES
Land Resources Investment Co.	Improvements to System Control Center	\$53,828	\$5,387	\$48,441	-	\$48,441	YES
Total						\$375,571,850	

ANALYSIS OF DIVERSIFICATION ACTIVITY
Assets or Rights Purchased from or Sold to Affiliates

FLORIDA POWER & LIGHT COMPANY
For the Year Ended December 31, 1997

Provide a summary of affiliated transactions involving asset transfers or the right to use assets							
Name of Affiliate	Description of Asset or Right	Cost/Ong. Cost	Accumulated Depreciation	Net Book Value	Fair Market Value	Purchase Price	True Passed Yes/No
<u>Purchases/Transfers from Affiliates</u>							
KPB Financial Corp. (KPB)	Accounts Receivable	\$375,000,000	\$0	\$375,000,000	-	\$375,020,000 (A)	YES
Land Resources Investment Co.	Brevard District Office	\$3,450,063	\$432,264	\$3,017,799	-	\$3,017,799	YES
	Total					\$378,037,799	
(A) Includes \$20,000 administrative fee paid to KPB							
<u>Sales/Transfers to Affiliates</u>							
KPB Financial Corp.	Accounts Receivable	\$410,000,000	\$0	\$410,000,000	-	Sales Price \$410,000,000	YES
Land Resources Investment Co.	Improvements to General Office	\$541,064	\$26,767	\$514,297	-	\$514,297	YES
FPL Services	6 -15KV potheads and a switch cabinet	\$2,537	\$0	\$2,537	\$3,153	\$3,153	YES
FPL Services	4 - Hard Drives	\$4,548	\$1,213	\$3,335	\$2,560	\$2,560	YES
	IBM PS2 Server	\$10,000	\$9,834	\$166	\$450	\$450	YES
ESI Energy, Inc.	Laptop Computer	\$5,956	\$1,045	\$7,911	\$5,374	\$5,374	YES
	Laptop Computer	\$5,470	\$0	\$5,470	\$5,470	\$5,470	YES
	Laptop Computer	\$5,470	\$152	\$5,318	\$5,470	\$5,470	YES
	Laptop Computer	\$5,470	\$152	\$5,318	\$5,470	\$5,470	YES
	Total					\$410,542,244	

ATTACHMENT F



STAYING THE COURSE

Adelphia Business Solutions
2000 Annual Report



ATTACHMENT G

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(A) of the
Securities Exchange Act of 1934

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

- ☒ Preliminary Proxy Statement
☐ Confidential, For Use of the Commission Only (as permitted by
 ☐ Rule 14a-b(e)(2))
☐ Definitive Proxy Statement
☐ Definitive Additional Materials
☐ Soliciting Material Pursuant to ((S))240.14a-11(c) or ((S))240.14a-12

ADELPHIA COMMUNICATIONS CORPORATION

(Name of Registrant as Specified In Its Charter)

COLIN H. HIGGIN, ESQ.

(Name of Person(s) Filing Proxy Statement)

Payment of Filing Fee (check the appropriate box):

- ☒ No Fee Required
☐ \$125 per Exchange Act Rules 0-11(c)(1)(ii), 14a-6(i)(1),
 14a-6(i)(2) or Item 22(a)(2) of Schedule 14A.
☐ \$500 per each party to the controversy pursuant to Exchange Act
 Rule 14a-6(i)(3).
☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(4)
 and 0-11.

(1) Title of each class of securities to which transaction applies:
(2) Aggregate number of securities to which transaction applies:
(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11
(Set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

have advised the Board of Directors that, unless authority is withheld, they intend to vote the shares represented by them at the Annual Meeting for the election of Perry S. Patterson, on behalf of the Class A Common Stockholders, and for the election of John J. Rigas, Michael J. Rigas, Timothy J. Rigas, James P. Rigas, Pete J. Metros, Dennis P. Coyle, Leslie J. Gelber, Peter L. Venetis and Erland E. Kailbourne, on behalf of all of the common stockholders of the Company. All nominees except Mr. Coyle, Mr. Gelber, Mr. Kailbourne and Mr. Venetis were first elected or appointed as directors of the Company in 1986. Mr. Coyle was first elected as a director of the Company in 1995. This is the first time that Mr. Gelber, Mr. Venetis and Mr. Kailbourne are being nominated as directors of the Company.

The Board of Directors knows of no reason why any nominee for director would be unable to serve as director. If at the time of the Annual Meeting any of the named nominees are unable or unwilling to serve as

2.

directors of the Company, the persons named in the proxy intend to vote for such substitutes as may be

Pete J. Metros

Age 59

Pete J. Metros became a director of Adelphia on November 4, 1986. Mr. Metros is the Managing Director of Mannesmann Dematic Systems - worldwide. On February 1, 1998, he was appointed to the Board of Directors of Mannesmann Dematic AG, headquartered in Wetter, Germany. He continues to be the President and a member of the Board of Directors for Mannesmann Dematic Rapistan Corporation (since 1991). From August 1987 to December 1991, he was President of Rapistan Corp., the predecessor of Rapistan Demag Corporation, and of Truck Products Corp., both of which were major subsidiaries of Lear Siegler Holdings Corp. From 1980 to August 1987, Mr. Metros was President of the Steam Turbine, Motor & Generator Division of Dresser-Rand Company. From 1964 to 1980, he held various positions at the General Electric Company, the last of which was Manager--Manufacturing for the Large Gas Turbine Division. Mr. Metros is also on the Board of Directors of Hyperion and Borroughs Corporation of Kalamazoo, Michigan. Mr. Metros has served as a director of Hyperion since 1997 and received a BS degree from Georgia Institute of Technology in 1962.

4.

Dennis P. Coyle

Age 61

Dennis P. Coyle is General Counsel and Secretary of FPL Group, Inc. and Florida Power & Light Company. Mr. Coyle was named General Counsel of FPL Group, Inc. and Florida Power & Light Company in 1989, and assumed the additional title and responsibilities of Secretary of such companies in 1991. He graduated from Dartmouth College in 1960 and received his law degree from Columbia University in 1965. In an investment agreement with respect to Olympus Communications, L.P. ("Olympus," a joint venture of the Company), John, Michael, Timothy and James Rigas had agreed to vote a sufficient number of shares of the Company's Class A common stock to elect to the Board of Directors a nominee of Telesat Cablevision, Inc., which is the Company's joint venture partner in Olympus. This agreement terminated on January 29, 1999 when Telesat sold all of its Adelphia stock to the Company. Prior to such termination, Mr. Coyle was the nominee of Telesat Cablevision, Inc., which is an indirect, wholly-owned subsidiary of FPL Group, Inc.

Leslie J. Gelber

Age 43

Leslie J. Gelber has been President and Chief Operating Officer of Caithness Corporation since January 1, 1999. Prior to this position, Mr. Gelber was President of Cogen Technologies, Inc. from July 1998 until December 1998. From 1993 until July 1998, Mr. Gelber was the President of ESI Energy, Inc., a former subsidiary of FPL Group, Inc. Prior to joining ESI, Mr. Gelber was the Director of Corporate Development for FPL Group and was Chairman of FPL Group's cable television subsidiary and President of its information services subsidiary. Mr. Gelber received a B.A. degree from Alfred University in 1977 and a Master's degree in business administration from the University of Miami in 1978.

Peter L. Venetis

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail
rates of Florida Power & Light
Company.

DOCKET NO. 001148-EI
ORDER NO. PSC-02-0401-PCO-EI
ISSUED: March 22, 2002

ORDER VACATING ORDER GRANTING MOTION TO COMPEL

On February 27, 2002, I issued Order No. PSC-02-0254-PCO-EI granting the South Florida Hospital & Healthcare Association's (SFHHA) motion to compel discovery in this docket. For the reasons set forth below, I now vacate that order.

By its Motion to Compel filed January 30, 2002, the SFHAA sought answers to its Interrogatory Nos. 32 and 33 seeking information concerning transactions involving Florida Power & Light Company's (FPL) unregulated affiliates. FPL responded on February 6, 2002, that the information sought was beyond the permissible scope of discovery in this proceeding.

On March 1, 2002, FPL filed a Motion for Reconsideration claiming that the Order fundamentally misapprehended the applicable law governing discovery. On March 8, 2002, SFHHA filed a response to FPL's Motion for Reconsideration. While this matter was pending, on March 14, 2002, I issued Order No. PSC-02-0348-PCO-EI, suspending the procedural schedule and discovery in this docket. On March 15, 2002, a Settlement and Stipulation was filed, which if approved, would dispose of all pending matters in this case. This agreement was approved by vote of the Commission on March 22, 2002. The discovery suspension was never lifted, and the Commission has voted to close the docket. It is, therefore, apparent that there is no need for FPL to provide SFHHA with the information. In consideration of these facts, I find that Order No. PSC-02-0254-PCO-EI should be vacated.

ORDER NO. PSC-02-0401-PCO-EI
DOCKET NO. 001148-EI
PAGE 2

It is therefore,

Ordered that Order No. PSC-02-0254-PCO-EI be and the same is hereby vacated.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 22nd day of March, 2002.

/s/ Braulio L. Baez
BRAULIO L. BAEZ
Commissioner and Prehearing Officer

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

(S E A L)

RVE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida

ORDER NO. PSC-02-0401-PCO-EI
DOCKET NO. 001148-EI
PAGE 3

Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 001148-EI

In the Matter of

REVIEW OF THE RETAIL RATES
OF FLORIDA POWER & LIGHT
COMPANY.

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A CONVENIENCE COPY ONLY AND ARE NOT
THE OFFICIAL TRANSCRIPT OF THE HEARING.
THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

PROCEEDINGS: SPECIAL AGENDA CONFERENCE

BEFORE: CHAIRMAN LILA A. JABER
COMMISSIONER J. TERRY DEASON
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI
COMMISSIONER RUDOLPH "RUDY" BRADLEY

DATE: Friday, March 22, 2002

TIME: Commenced at 8:35 a.m.
Concluded at 10:05 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR
Official FPSC Reporter
(850) 413-6734

1 APPEARANCES:

2 PAUL EVANSON, and R. WADE LITCHFIELD, Florida Power
3 & Light Company, 700 Universe Boulevard, Juno Beach, Florida
4 33408-0420, appearing on behalf of Florida Power & Light
5 Company.

6 KENNETH L. WISEMAN, Andrews & Kurth, L.L.P., 1701
7 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C.
8 20006-5805, appearing on behalf of South Florida Hospital and
9 Health Care Association.

10 ROBERT SCHEFFEL WRIGHT, Landers & Parsons, P.A., 310
11 West College Avenue, Tallahassee, Florida 32302, appearing on
12 behalf of Lee County.

13 MICHAEL B. TWOMEY, Post Office Box 5256, Tallahassee,
14 Florida 32314-5256, appearing on behalf of Thomas and
15 Genevieve Twomey.

16 SEANN FRAZIER, Greenberg, Traurig, P.A., 101 East
17 College Avenue, Tallahassee, Florida 32302, appearing on
18 behalf of Florida Retail Federation.

19 VICKI GORDON KAUFMAN, McWhirter, Reeves, McGlothlin,
20 Davidson, Decker, Kaufman, Arnold and Steen, P.A., 117 South
21 Gadsden Street, Tallahassee, Florida 32301, appearing on
22 behalf of Florida Industrial Power Users Group.

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1 APPEARANCES CONTINUED:

2 JACK SHREVE, Public Counsel, Office of the Public
3 Counsel, c/o The Florida Legislature, 111 W. Madison Street,
4 Suite 812, Tallahassee, Florida 32399, appearing on behalf of
5 the Citizens of the State of Florida.

6 ED PASCHALL, 200 West College Avenue, Tallahassee,
7 Florida 32301, appearing on behalf of AARP.

8 ROBERT V. ELIAS, FPSC Division of Legal Services, 2540
9 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
10 appearing on behalf of the Commission Staff.

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1 P R O C E E D I N G S

2 CHAIRMAN JABER: Good morning. We're going to go
3 ahead and get started with the Agenda. This is a special
4 agenda. There's no notice to be read or anything like that.

5 MR. ELIAS: No.

6 CHAIRMAN JABER: I suppose it would be appropriate to
7 say that we are here to consider the proposed settlement that
8 was filed by FP&L, et al. We are going to allow some time for
9 parties to make presentations. I have to tell you that I'm
10 going to allow you up to five minutes. We'll start with
11 Mr. Evanson over here and move this way. Feel free to take up
12 to five minutes, but we will be brief in the presentations.

13 Go ahead, Mr. Evanson.

14 MR. LITCHFIELD: Commissioner Jaber, if it would be
15 acceptable to you, we'd defer initially to Mr. Shreve, if
16 that's all right.

17 CHAIRMAN JABER: Absolutely.

18 MR. LITCHFIELD: Thank you.

19 CHAIRMAN JABER: Good morning.

20 MR. SHREVE: Good morning. We do appreciate the
21 Commission taking this matter up as early as you have so that
22 we can get these benefits to the customers. And I will be
23 brief. We have several Intervenors here that would like to
24 speak this morning.

25 I think you've all seen the settlement and I'm sure

1 the Staff has thoroughly reviewed it. It calls for a
2 \$250 million decrease in rates, which brings the total decrease
3 to \$600 million.

4 In addition to that, we have some protections in
5 there allowed to Florida Power & Light in case there are
6 anymore downturns which have to be covered. We have protection
7 for the customers in the way of a rebate and a sharing program
8 such as we did last time with what we feel very comfortable
9 with on the sharing points. The last agreement has produced or
10 will have produced when the agreement is up in April over
11 \$200 million in refunds. We feel this agreement will do just
12 as much, if not much more, as far as refunds go.

13 It's been a pleasure to work with all of the parties
14 in this case. And after Mr. Evanson completes his remarks, I
15 would like for the Commission, if we could, to give the parties
16 that are here an opportunity to speak and say what their
17 thoughts are on the agreement.

18 Here again, it's been a team effort. We've all
19 worked together on this and feel that we've produced a
20 settlement that is beneficial to the ratepayers in the State of
21 Florida. Thank you.

22 CHAIRMAN JABER: Thank you, Mr. Shreve. Mr. Evanson?

23 MR. EVANSON: Okay. Good morning. I'm delighted to
24 be here to seek your final order of approval of this settlement
25 agreement which I believe is in the best interest of all the

1 parties, including especially the FPL customers.

2 I'd first like to express our appreciation to the
3 Commission for encouraging the settlement and to end this
4 protracted, costly rate review proceeding. And I'd also like
5 to express my appreciation to Jack Shreve, the Office of Public
6 Counsel, and all the Intervenors for their constructive
7 approach in negotiating this agreement with us, sometimes
8 negotiating it too well, perhaps.

9 Reaching this agreement, reaching this settlement
10 agreement came after a very thorough and complete review of
11 FPL's operations by your Staff as well as all the Intervenors
12 in the case.

13 FPL filed or produced over 1,300 pages of minimum
14 filing requirements, 4,100 responses to discovery, 750 pages of
15 direct testimony from 13 expert witnesses with over 100,000
16 pages of documents attached. So the record, the record
17 demonstrates this was a comprehensive and exhaustive review of
18 our operations.

19 Now, as Mr. Shreve said, this agreement provides for
20 an annual permanent base rate reduction of \$250 million or
21 seven percent for all of our customers, and in addition a
22 midcourse fuel correction of \$200 million. This will put FPL's
23 rates about 18 to 20 percent below national averages.

24 The new agreement is patterned after the existing
25 agreement, which was entered into in 1999 and which cut base

1 rates by \$350 million. With the approval of this agreement,
2 base rates will then be \$600 million below the level of only
3 three years ago. And, frankly, we know of no company that has
4 ever cut rates by that order of magnitude.

5 Like its predecessor, the new agreement also provides
6 for future revenue sharing. And under the existing agreement,
7 we estimate that over \$200 million in special one-time refunds
8 to customers will be paid over the term of that agreement.

9 The agreement also continues the innovative
10 incentive-based regulatory structure championed by FPL, the
11 Office of Public Counsel and this Commission. The approach
12 offers FPL the opportunity to be rewarded to the extent that,
13 and really only to the extent that it improves operational
14 efficiencies and drives costs out of the system.

15 The FPL incentive during the term of the agreement
16 becomes the benefit to customers at the end of the agreement
17 through permanent rate cuts, which is exactly what this new
18 agreement is all about.

19 I believe the State of Florida and this Commission
20 are leading the nation in enlightened and progressive utility
21 regulation.

22 So in summary, I think this settlement is really a
23 win, win, win. I think it's a win for our customers, it's a
24 win for our shareholders and I think it's a win for the State
25 of Florida, and I urge your prompt, final order of approval of

1 it so that our customers may begin to enjoy these lower rates
2 beginning April 15th. Thank you very much.

3 CHAIRMAN JABER: Thank you, Mr. Evanson. Any other
4 parties to the settlement?

5 MR. SHREVE: Commissioner, if I might. We do have
6 several of the parties represented here, and I'll call on all
7 that I know that are represented here. And, once again, I
8 would like to point out that this is a docket that the
9 Commission opened. You elected to have this rate review. And
10 if the Commission had not opened it, then there's probably a
11 very good chance that we wouldn't be at the tables now with
12 this rate reduction. So I'd like to thank the Commission and
13 congratulate you on opening this docket. It is a different
14 situation than we normally have as far as a full-blown rate
15 case petitioned by the parties, but that's where we are.

16 I'd like to call, mention that we have had good
17 cooperation, excellent cooperation with everyone, and a few
18 people would like to make a few brief remarks. I'd like to
19 first call on Scheff Wright, if I could, who represents Lee
20 County. And this is one of the first times we've actually had
21 a county involved, and I think it's excellent that we have a
22 local government involved like this.

23 CHAIRMAN JABER: Mr. Wright.

24 MR. WRIGHT: Thank you, Madam Chairman. Scheff
25 Wright appearing on behalf of Lee County, Florida.

1 Lee County supports the stipulation and settlement.
2 I'd like to echo the comments of Mr. Shreve and Mr. Evanson;
3 thank the Commission very much for undertaking to hear the
4 settlement this quickly so that we can get the benefits of the
5 settlement in place for all of FPL's customers as soon as
6 possible.

7 This settlement is fair, reasonable and appropriate.
8 It provides a good incentive-based regulatory structure. It's
9 specifically beneficial to Lee County government as well as to
10 all FPL's residential, commercial, industrial and institutional
11 customers in Lee County and everywhere else in FPL's service
12 territory. We support the settlement. We thank you for your
13 prompt consideration of the settlement and we urge you to
14 approve it. Thanks.

15 MR. SHREVE: Publix Super Market is represented by
16 Tom Cloud. Mr. Cloud was on the road and I think unable to be
17 here. I'm not sure if anyone else had come in for Tom, but he
18 was, worked hard on all aspects of this case and the
19 settlement.

20 Ron LaFace representing the Florida Retail Federation
21 has worked diligently with us on this, and Seann Frazier, I
22 know, is here from the firm. I think Mr. LaFace is tied up in
23 the Legislature probably since this is the last day of the
24 session. So if, Seann, if you had any comments you wanted to
25 make.

1 MR. FRAZIER: We just want to echo the sentiments and
2 express our appreciation for this settlement. Thank you.

3 CHAIRMAN JABER: Thank you.

4 MR. SHREVE: Mr. McWhirter has worked diligently with
5 us in this, he is back in Tampa today, representing the Florida
6 Industrial Power Users Group. This is a group that we have in,
7 I guess, every single case and it's always good to have them in
8 here. They're real stalwart in their representation and work
9 in all of the cases. And although John is not here, Vicki
10 Kaufman is here representing FIPUG.

11 MS. KAUFMAN: Thank you, Madam Chairman, Mr. Shreve.
12 Vicki Gordon Kaufman on behalf of the Florida Industrial Power
13 Users Group. We echo all the comments that you have heard.

14 As Mr. Shreve said, FIPUG has a long history of
15 participation before this Commission in rate cases and other
16 matters that affect large consumers. We wish that all our
17 cases would have such a happy conclusion as this one.

18 We're very appreciative of the hard work of the
19 Commission Staff, the Commissioners and all the parties, and we
20 echo the comments that this is a settlement that's in the
21 interest of all the ratepayers of Florida. Not only does it
22 have tremendous benefits to all of the ratepayers, but it also
23 has resulted in the elimination of some protracted litigation
24 that has saved my clients and others as well a lot of costs.
25 We'd rather see that money coming back to the customers than

1 being expended on litigation before the Commission. So we
2 wholeheartedly support the settlement and also ask for your
3 final approval of it today. Thank you.

4 CHAIRMAN JABER: Ms. Kaufman, I just wanted you to
5 know that all your cases can conclude like this, if you want.
6 I couldn't let that go.

7 MR. SHREVE: Madam Chairman, one of our larger
8 clients we're going to have appear here today and make some
9 comments; Mr. Ed Paschall of AARP. Ed has come back from
10 Israel specifically for this hearing. I appreciate Ed coming
11 out. Ed always works with us, and we're happy to be able to
12 converse with them throughout these proceedings and have worked
13 with them and tried to cooperate with our, really with our
14 largest single consumer group in the state. And they've worked
15 with us on every case that we've had and it's always a
16 pleasure, and I appreciate Ed coming out.

17 CHAIRMAN JABER: Good morning.

18 MR. PASCHALL: Good morning, Madam Chairman, members
19 of the Commission. It's always a pleasure for us to have the
20 opportunity to come over here and speak to the Public Service
21 Commission, and especially in this case since it appears pretty
22 much that the deal has been done and it looks like a good deal
23 for everybody who is involved in it.

24 We would like to extend our compliments to all of the
25 parties who were involved in the deliberations that led to this

1 negotiated settlement, which does appear to be a very good one
2 for, as was mentioned a few minutes ago, a win, win, win
3 situation, that it should be a great benefit to everybody.
4 especially to a lot of the older people whom we represent and
5 who can certainly use every dollar that they can save as far as
6 their utilities are concerned because that's one of their
7 highest costs when it comes to their continuing their existence
8 either in the summer or in the winter. So we think this is
9 good, a good agreement and we hope that you will speedily
10 approve it. Thank you very much.

11 CHAIRMAN JABER: Thank you, Mr. Paschall.

12 MR. SHREVE: And of the parties that signed on the
13 agreement, last and by far from least, Mr. Mike Twomey. We
14 were wondering about Mike, but he did receive his fee from his
15 mother and dad last night, as I understand it. And I'd like to
16 ask if Mike would, if he has any comments he'd like to make.
17 Mike has worked with us hard on this and he's a hard man to
18 please, but he's up here.

19 CHAIRMAN JABER: Are you saying you saved Mr. Twomey
20 for last, is that what you're saying?

21 MR. TWOMEY: Not the best for last necessarily.

22 Madam Chairman, Commissioners, Mike Twomey on behalf
23 of Thomas and Genevieve Twomey. I'd like to just briefly
24 recognize some folks probably or chronologically, I guess, in
25 the order of this case.

1 First, I'd like to commend your Staff for bringing
2 this case to you and urging the filing that brings us to this
3 point. They deserve a lot of credit for that.

4 Next, y'all deserve credit for accepting the
5 recommendation and ordering the filing in this case and
6 sticking to that throughout.

7 Next, of course, would be the parties and Staff for
8 engaging in the very thorough discovery they engaged in, which
9 gave us reams of data Mr. Evanson spoke to moments ago, which
10 should have given confidence to all the parties that this
11 settlement is in the best interest of the consumers and the
12 company and give y'all confidence and your Staff confidence as
13 well that we had all the information we needed to make a
14 reasonable judgment of what the reduction should be.

15 Next, of course, I'd like to compliment Jack Shreve
16 and the management of the company for engaging in these
17 settlement negotiations and the other parties that played a
18 role in that, but particularly Jack Shreve for doing such a
19 great job for the consumers and for the company, being as
20 reasonable as they have been.

21 As one advocate in this case, I think the settlement
22 is excellent for the consumers of Florida, I assume it's good
23 for the company as well, and would urge your acceptance of it.
24 Thanks.

25 CHAIRMAN JABER: Thank you, Mr. Twomey.

1 MR. SHREVE: Okay. Madam Chairman, I think it's good
2 that Mr. Twomey pointed out the one thing that this Commission
3 did want and that everyone wanted was all the information that
4 was needed to review, and I think that has been thoroughly
5 reviewed, particularly by your Staff and all the parties and
6 the discovery that we've had in it.

7 South Florida Hospital Association is also a party.
8 Mr. Wiseman or the association has not signed on the agreement,
9 but I'd like to call on him, if he has any remarks at this
10 time.

11 CHAIRMAN JABER: Give me your name one more time.

12 MR. WISEMAN: Kenneth Wiseman for the South Florida
13 Hospital Health Care Association.

14 First of all, I want to express our appreciation to
15 Jack Shreve for the hard work that he's done in trying to craft
16 what would be a universal settlement of any support in the
17 concept of attempting to reach a settlement. Unfortunately, we
18 cannot support the settlement in this case and I guess I'm
19 feeling a little bit lonely over here, given the other
20 comments.

21 But that being said, let me also say at the outset,
22 and I say this with no disrespect whatsoever to the Commission,
23 but I'm somewhat chagrined that we have but five minutes to
24 present our position because we thought at least that we'd be
25 given the opportunity to present a thorough analysis to show

1 why this settlement should not be approved.

2 CHAIRMAN JABER: How much time do you need,

3 Mr. Wiseman?

4 MR. WISEMAN: I would need at least a half an hour.

5 CHAIRMAN JABER: Okay. Commissioners, what's your
6 pleasure? I mean, we've read the settlement. We really are
7 here to discuss the proposed settlement. It was a proceeding
8 that the Commission initiated. How about you do the best you
9 can with 15 minutes.

10 MR. WISEMAN: All right. I'll take a shot at that.
11 Thank you very much.

12 The first item that I'd like to point out that we
13 disagree with strenuously is the proposition that the
14 \$250 million cost-of-service reduction is adequate. We believe
15 that if we were given the opportunity to present evidence in
16 this case, we could show that a cost-of-service reduction more
17 along the lines of a minimum of \$500 million is what's needed
18 in this case, and we think the evidence would support that.

19 Now I don't have time, I don't believe, to go through
20 the items individually as I had intended. But we have
21 presented testimony concerning specific items that are included
22 in FPL's test year, projected test year cost-of-service that
23 are inappropriate. And when you compile those items together,
24 it amounts to, I believe it's approximately \$475 million in
25 cost-of-service reductions.

1 On top of that, certain items that we can quantify at
2 this time, but which were, we intended to develop through
3 cross-examination and on brief, relate to FPL's requested
4 return on equity, which we believed the evidence that's in the
5 case right now, if you simply look at the evidence presented by
6 Dr. Olivera, FPL's witness on return on equity, would support a
7 100 to 200 basis point reduction in the midpoint return on
8 equity that he's proposed. And that produces an additional
9 \$47 million reduction to FPL's test year cost-of-service.

10 On top of that, there are, there's an issue related
11 to the Sanford repowering project. Based upon the evidence
12 that is available to us right now, we know that there's a cost
13 overrun of approximately \$100 million on that project. FPL's
14 ratepayers shouldn't be required to pay for a cost overrun
15 that's caused by FPL's inefficient process of constructing the
16 repowering project. That would produce another \$13 million per
17 year reduction to the test year cost-of-service.

18 So when you add those items up together, and these
19 are items that we can quantify right now, we come up with
20 \$535 million in cost-of-service reductions. And to be honest,
21 when we compare that to the \$250 million reduction that's
22 called for in the settlement, the \$250 million reduction does
23 not seem adequate and we don't believe that it's, it will
24 result in just and reasonable rates.

25 One particular item that I want to talk about in the

1 cost-of-service reductions relates to FPL's capital structure.
2 FPL has an extraordinarily thick equity component in its
3 capital structure. It's 64 percent. That's excessive for an
4 A-rated utility. If you look at Standard & Poor's, Standard &
5 Poor's suggests that an A-rated utility facing, having a risk
6 profile similar to FPL's should have a capital structure of
7 approximately 50 percent common equity. That's, in fact -- by
8 the way, the 50 percent common equity is directly consistent
9 with a comparison group that Mr., I'm sorry, Dr. Olivera used
10 in his testimony on behalf of FPL.

11 Standard & Poor's and Moody's have both said that FPL
12 Group is engaged in high-risk business activities by its
13 nonregulated affiliates. Those nonregulated affiliates are
14 involved in building independent power projects in other
15 states. And it's because of those unregulated activities in
16 the high business risk that FPL Group has to have a very thick
17 equity component in order to provide credit protection.

18 Now the effect of having that equity component, that
19 thick equity component is FPL's ratepayers are subsidizing the
20 activities of unregulated affiliates. And, again, those
21 activities are the construction of power plants in other states
22 that in no way serve the ratepayers in Florida.

23 The effect of that item alone is approximately
24 \$173 million in the test year cost-of-service. So you take
25 that item alone and you're bumping right up against the

1 \$250 million reduction that the settlement provides without
2 even getting into the other items that I would include in our
3 quantification of \$500 million in cost-of-service reductions.

4 Now those are the items -- so far I've referred to
5 items that we can quantify, but I want to stress that there are
6 a lot of items that we can't quantify at this time. And,
7 frankly, that's because FPL has been stonewalling on discovery
8 in this case.

9 There's no question but that FPL has been engaged in
10 numerous transactions with unregulated business affiliates.
11 The law is clear that we have the right in discovery to obtain
12 information about those activities to find out whether they're
13 impacting rates or not.

14 In fact, as we're sitting here today, there's an
15 order from Commissioner Baez acting as presiding officer
16 requiring FPL to produce that information, but FPL hasn't done
17 it. Instead what it did is it filed what we regard as a
18 frivolous motion for reconsideration, which was a way of FPL
19 stonewalling and not providing the information to which we're
20 entitled.

21 Now what are those activities? First of all, there
22 is a -- FPL Group's 2000 annual report indicated that the FPL
23 Group owned interest in an entity called Adelphia
24 Communications Corp. It sold that at a \$150 million gain. The
25 annual report also indicated that FPL Group redeemed interest

1 in a cable TV partnership for a \$108 million gain. We know for
2 sure that FPL's been engaged in activities at least with
3 Adelphia, and we were trying to find out whether it was engaged
4 in activities, business activities with this other organization
5 as well.

6 The business activities with Adelphia, FPL admits
7 that Adelphia uses FPL property in conducting Adelphia's
8 business. Now FPL does get rentals, rent revenues from
9 Adelphia, but the question is are those adequate or not? Are
10 they covering the costs or are FPL's ratepayers subsidizing
11 Adelphia's investors?

12 We'd like to get discovery about that, but we have
13 been denied discovery at this point because FPL just hasn't
14 turned it over, notwithstanding the order from Commissioner
15 Baez.

16 FPL also sold property in 2000 to an affiliate called
17 FiberNet. Now those assets, and FPL admits this, those assets,
18 it was a fiber optic network, originally were constructed to
19 support FPL's utility operations. Since the transfer to
20 FiberNet, FPL's rental revenues have dropped precipitously. I
21 think that creates a clear question: What is going on with
22 this affiliate? Again, we've sought information about this and
23 FPL has stonewalled. We haven't gotten the information.

24 There's another affiliate named Land Resource
25 Investment Company. FPL surveillance reports clearly disclose

1 that millions of dollars of FPL property have been shed and
2 provided to that entity. But, again, we don't know what the
3 purpose of that is and whether that's resulting in a transfer
4 of ratepayer value over to the investors in the unregulated
5 business activities.

6 COMMISSIONER JABER: Mr. Wiseman, I just want to give
7 you a heads-up that you have just two or three minutes left.

8 MR. WISEMAN: All right. Thank you.

9 The point is that there's an inadequate record in
10 this proceeding. Neither the Commission nor really any members
11 that signed onto the stipulation have any knowledge of what the
12 impact is of the unregulated business activities on FPL's
13 rates.

14 Since I only have a couple of minutes, I'll cut to
15 the end. The bottom line is that we think there's inadequate
16 information about FPL's dealings with affiliates. We believe
17 that if you look at FPL's resource planning process, that also
18 is a matter that's not been disclosed on this record because
19 FPL stonewalled on providing discovery concerning it. And we
20 know at a minimum that it's resulted in a \$100 million overrun
21 in at least one case.

22 FPL's rates haven't been examined on a comprehensive
23 basis in 18 years. And, again, I don't say this -- well, I say
24 this with no disrespect to the Commission, but that has got to
25 be a record for a regulated public utility in this, in this

1 country.

2 It's time that FPL's rates be examined
3 comprehensively. What we would ask is that you defer ruling on
4 this stipulation; that what you do is you allow the discovery
5 process to be completed so that we obtain the information
6 concerning FPL's affiliate dealings and concerning its resource
7 planning process; that after obtaining that discovery, you hold
8 a hearing on the merits of the settlement proposal to find out
9 whether the settlement proposal, in fact, results in just and
10 reasonable rates. And that's a determination that we submit
11 can only be based upon a full and adequate administrative
12 record, and that's not something that the Commission has
13 currently before it. Thank you very much.

14 CHAIRMAN JABER: Thank you, Mr. Wiseman. Staff, I've
15 got -- and, parties, I know you probably want to respond, but
16 let's allow you to respond after the Commissioners ask
17 questions as well.

18 Staff, I have a series of questions. Some go to the
19 points raised by Mr. Wiseman, some go to your recommendation
20 and some really serve to clarify for me the terms of the
21 settlement.

22 I was trying to understand the revenue sharing
23 mechanism, first of all. And, Dale. I'm sorry to skip around
24 on you like this, but the revenue sharing mechanism, if I
25 understood it correctly, for the Year 2002, all revenues

1 between \$3,580,000 and \$3,740,000 would be shared one-third to
2 the shareholders and two-thirds to retail customers. Now
3 because we're, we've already started 2002, there's a cap, if I
4 understand it correctly, for the Year 2002 to 71.5 percent of
5 the revenues exceeding the cap.

6 MR. MAILHOT: That's correct.

7 CHAIRMAN JABER: For the Year 2003, revenues between
8 \$3,680,000 and \$3,840,000 are shared, again, one-third to
9 shareholders, two-thirds to the retail consumer.

10 MR. MAILHOT: That's right.

11 CHAIRMAN JABER: All -- and this is critical. I want
12 to make sure I'm doing this right. All revenue over \$3,840,000
13 will be refunded entirely to the retail customer. Is that your
14 understanding of this settlement?

15 MR. MAILHOT: Yes.

16 CHAIRMAN JABER: For the Year 2004, all revenues
17 between \$3,780,000 and \$3,940,000 are shared, again, one-third
18 to the shareholders, two-thirds to the retail customers, and
19 all revenue over the \$3,940,000 will be refunded entirely to
20 the consumers.

21 MR. MAILHOT: Yes.

22 CHAIRMAN JABER: In the Year 2005, which, if we
23 accept the settlement, will be the last year of the settlement;
24 right? That's all revenues between \$3,880,000 and \$4,040,000
25 will be shared one-third to shareholders and two-thirds to

1 retail consumers. All, all revenue over \$4,040,000 will be
2 refunded entirely to the retail consumer.

3 MR. MAILHOT: That's correct. But all those amounts
4 are billions, yes.

5 CHAIRMAN JABER: All right. Now I want to
6 understand -- what did you say?

7 MR. MAILHOT: They're all billions.

8 CHAIRMAN JABER: Oh, thank you. See.

9 MR. LITCHFIELD: We appreciate that clarification
10 from Staff.

11 CHAIRMAN JABER: So do I. So do I. So do I.

12 Now I want to understand the cost-of-service study.
13 It's my understanding that the cost-of-service study filed by
14 FP&L shows that some groups are below parity and some are above
15 parity.

16 MS. KUMMER: Yes, ma'am.

17 CHAIRMAN JABER: For the hospital group, it's your
18 representation that the Hospital Association is currently below
19 parity.

20 MS. KUMMER: I would assume without first-hand
21 knowledge that they would be served under one of the general
22 service demand classes, and those are all below parity to some
23 degree. Yes, ma'am.

24 CHAIRMAN JABER: What do you mean by parity?

25 MS. KUMMER: Parity is a bit of a short-hand term in

1 cost-of-service. The purpose of a cost-of-service study is to
2 determine if a class's revenue recovers the costs necessary to
3 serve that class.

4 A benchmark we use is to compare the rate of return
5 within a class to the system rate of return. That's what we
6 call a parity ratio. If the system, if the class rate of
7 return is higher than the system rate of return, it's above
8 parity. If it's below the system rate of return, it's below
9 parity.

10 CHAIRMAN JABER: And through the rate case
11 proceeding, as I recall when we initiated the proceeding, one
12 of the discussions we had was let's make sure that the rate
13 classes are at parity, they're where they need to be in terms
14 of contribution levels. And had -- if this Commission decides
15 to go forward with the rate proceeding, what that means for the
16 Hospital Association is we take them to parity, which in
17 dollars, and, again, correct me if I'm wrong, but in dollars
18 that equates to a rate increase.

19 MS. KUMMER: In a theoretical sense, that's correct,
20 that we do try to bring classes as close to parity as possible
21 in a rate case. In a case where we have a revenue reduction
22 across the board, what would likely happen is they would get
23 less of an increase perhaps than other classes are above parity
24 if -- for classes which are already below parity. And that, in
25 fact, is what happened with the lighting classes, as stated in

1 the stipulation, that they did not get a decrease for those
2 classes because they're already so far below parity, we didn't
3 feel that it was necessary.

4 CHAIRMAN JABER: Now how does the stipulation address
5 that? If I understand the stipulation correctly, it actually
6 keeps the classes right where they are and allows the rate
7 reduction to be shared with all classes regardless of the fact
8 that they're not at parity.

9 MS. KUMMER: That's the proposal. It is an
10 across-the-board reduction. This is different from what has
11 been proposed and accepted in the other stipulations offered by
12 the company and the parties in that those were allocated on
13 energy. If you allocate the decrease on energy, more of the
14 decrease goes to large customers simply because they have more
15 kilowatt hours to allocate it on.

16 This method of allocating on a percentage across the
17 board does not help parity, but it does not make it worse the
18 way an energy allocation would tend to do.

19 CHAIRMAN JABER: Now from the recommendation, just a
20 couple of things I need to understand, on Page 4 you make the
21 comparison of a percentage reduction in base rates to, in the
22 fashion that the stipulation sets forth, to sort of a base rate
23 reduction based on an energy allocation. And Staff's
24 recommendation is the settlement actually does it better, that
25 an allocation based on energy usage is, is, and I'm reading

1 into your sentence, is almost unfair.

2 MS. KUMMER: It tends --

3 CHAIRMAN JABER: Can you elaborate?

4 MS. KUMMER: That is correct. An energy allocation,
5 again, tends to give a larger percentage of the decrease to the
6 larger customer classes, the commercial classes which are
7 already below parity. The across-the-board increase gives
8 everybody a fairer shot at the pot of dollars to decrease
9 those, yes.

10 CHAIRMAN JABER: In the last stipulation was the rate
11 reduction done based on an energy allocation?

12 MS. KUMMER: Yes, ma'am. And we much prefer the
13 across-the-board.

14 CHAIRMAN JABER: On Page 5 of your recommendation,
15 when you're going through the individual items of the
16 stipulation, you make reference to the fact that Item 10
17 probably should be clarified.

18 MR. SLEMKEWICZ: Yes. That the -- that -- they can
19 take that credit of up to \$125 million against depreciation
20 expense, but it would be on a calendar year basis. So for 2002
21 it would just be over the rest of the year and then it would be
22 on an annual calendar year basis for the rest of the agreement.

23 CHAIRMAN JABER: But the purpose of your statement,
24 is that something we, if we accept the settlement, we should
25 clarify in the order or should we seek clarification from the

1 parties? What is it you need to accomplish this clarification?

2 MR. SLEMKEWICZ: Well, we've been looking at the, you
3 know, the plan -- the existing plan ends this April. And we
4 just wanted to make sure that it did not keep going from April
5 to April on an annual basis for their proposal. And we just
6 wanted to make sure they're doing it on a calendar year basis
7 rather than April to April.

8 COMMISSIONER DEASON: Under your proposal or the way
9 that you view this, what would be the maximum amount of credit
10 which could be taken in the Year 2002?

11 MR. SLEMKEWICZ: They could take the entire
12 \$125 million, if they decided to do that.

13 COMMISSIONER DEASON: But it would be from April to
14 December 31, and then after, every subsequent year it would be
15 a calendar year basis until the termination of the agreement,
16 which is in 2005.

17 MR. SLEMKEWICZ: That's correct.

18 COMMISSIONER DEASON: Okay. Is that the parties'
19 understanding as well?

20 MR. LITCHFIELD: That's correct.

21 CHAIRMAN JABER: Mr. Shreve?

22 MR. SHREVE: Yes.

23 CHAIRMAN JABER: All right. Finally, Staff, we heard
24 Mr. Wiseman's remarks. Do you have any concern that you didn't
25 have responses to your discovery or that there was stonewalling

1 on your discovery? The parties have represented that actually
2 there's adequate discovery and adequate information in the
3 case. I want to make sure that Staff agrees with that.

4 MR. MAILHOT: I believe the company has provided
5 responses to all of our questions so far.

6 CHAIRMAN JABER: And, Staff, if I've done my math
7 correctly and understand the revenue sharing mechanism, it's
8 actually a continuation of the revenue sharing plan that has
9 been existence, in existence that will expire April 15th of
10 this year. And do you have any idea of what that equates to in
11 dollars at the end of 2005? How big of a revenue refund, rate
12 refund are we talking about for the consumers of the State of
13 Florida at the end of 2005?

14 MR. MAILHOT: Beginning in April of 2002?

15 CHAIRMAN JABER: Yes.

16 MR. MAILHOT: Roughly, if you add in the midcourse
17 correction, it's probably to a billion dollars over three and
18 three-quarters years.

19 CHAIRMAN JABER: Dale, I can't hear you.

20 MR. MAILHOT: It's probably close to a billion
21 dollars over three and three-quarters years in total.

22 CHAIRMAN JABER: Commissioners, those are all the
23 questions I have right now. Any questions?

24 COMMISSIONER DEASON: Madam Chairman, I have just a
25 few questions concerning the agreement and Staff's

1 recommendation, more, I think, clarification than anything
2 else. If now is the appropriate time, I can ask those
3 questions.

4 CHAIRMAN JABER: Absolutely.

5 COMMISSIONER DEASON: Okay. I'll direct this at
6 Staff and then, if I need further amplification, I'll address
7 it to the parties. But I'm looking at the agreement itself,
8 which is Page 14 of the recommendation, and I'm looking at
9 Paragraph 12. And this is, this concerns amortization expense
10 that's recorded as an offset to the investment tax credit
11 interest synchronization adjustment.

12 I just need further understanding. Exactly what,
13 what does this accomplish and what's the reason for it?

14 MR. MAILHOT: Items 11 and 12 actually are very old
15 items from the company's last rate case, and they should have
16 been or they should be addressed at the time of the company's
17 next rate case. And this is really, it's somewhat of a cleanup
18 item for something that they've been recording for the last
19 probably 15 years at least.

20 COMMISSIONER DEASON: So this is something that if we
21 had actually taken this matter to hearing, this would have been
22 something that would have been accomplished, at least it would
23 have been Staff's recommendation to have accomplished this in
24 the final order?

25 MR. MAILHOT: That's correct.

1 COMMISSIONER DEASON: Okay. The, the other question
2 I have, I guess this is probably more appropriately addressed
3 to the company, and it has to do with the ability of the
4 company to, to book credit amounts to the depreciation expense
5 up to \$125 million per year. And we got, just got
6 clarification as to how that would work during the, during the
7 duration of this agreement.

8 I, I can understand the necessity for this. It gives
9 the company some, some flexibility. This agreement is over a
10 number of years and you cannot look into a crystal ball and
11 know exactly what's going to transpire during that period of
12 time. I guess it gives the company some ability to have some
13 consistency and stabilize earnings, if necessary.

14 I guess my question, I guess I'm looking for some
15 assurance from the company, is that this provision will not be
16 utilized unnecessarily. I think that I'm looking for a
17 commitment that the company will continue its, its stellar
18 track record in the past of being efficient in managing their
19 company effectively to the benefit of its stockholders and its
20 customers and that these amounts will not be utilized unless
21 necessary, and that's the kind of comfort I'm looking for. And
22 if someone can address that, I certainly would appreciate it.

23 MR. EVANSON: Well, Commissioner Deason, we certainly
24 intend to continue to operate the company in the same efficient
25 manner we have in the past and we certainly will be making

1 every effort to improve operational efficiency and
2 productivity. And I think that's also inherent in the
3 agreement that's giving us that incentive to continue to do it.
4 number one.

5 Number two, on the depreciation side, I think it's
6 likely that we would avail ourselves of that provision probably
7 to the fullest extent probably in every year. And I say that
8 for not, not primarily because of the earnings impact, but also
9 because when we actually compare ourselves, our depreciation
10 rates to all of our various peers in the industry, it's very
11 clear that our rates are far higher than most. In fact, they
12 may be the highest in the industry in terms of the depreciation
13 rate that we're taking.

14 So we've done a lot to do that, we've changed a lot
15 of policies, and I think perhaps we've gone too far in that
16 area. We did, as you know, in the '90s under the depreciation,
17 special depreciation program approved by the Commission take
18 perhaps an additional billion dollars of special depreciation
19 secondly. And then when we go back and look at the remaining
20 book value of our assets, they are extremely low and extremely
21 low compared to industry averages. The fossil is about, I
22 think it's almost a fourth of what the industry average is; the
23 nuclear is about the same order of magnitude. So in a sense
24 we've significantly -- it appeared to me relative to industry
25 and also relative to market value, those assets have been very

1 highly depreciated.

2 And indeed, as you know, when the 2020 Study
3 Commission was looking at issues of transferring assets out of
4 rate base unlike almost every jurisdiction in the country that
5 had a concern about stranded costs, the issue that, that raised
6 in the Commission was really stranded benefit because the
7 assets are depreciated to that degree.

8 So, frankly, we think it's appropriate to look at
9 that depreciation and that, and that this reduction is probably
10 bringing depreciation to an appropriate level. And since we
11 will not be having, I believe, not having a full review of
12 depreciation by the Staff during that period, we think the
13 review probably would have shown that we were overdepreciating.

14 So it serves a few purposes, but I think it certainly
15 would serve the purpose of bringing our depreciation more
16 in-line. And I think after we've taken that, to the extent
17 that we take the full \$125 million, we actually will be in-line
18 with peer groups.

19 So, first, I think we probably will be taking it but,
20 secondly and most importantly, it will have no impact
21 whatsoever on our intense effort to continue to improve
22 operations.

23 COMMISSIONER DEASON: When is, when is the next
24 depreciation study due to be filed?

25 MR. EVANSON: Depreciation study?

1 COMMISSIONER DEASON: Depreciation study, yes.

2 MR. EVANSON: I think it otherwise would have been
3 filed in 2003. And I believe, the attorneys can correct me, I
4 believe under this agreement that'll be postponed until --

5 CHAIRMAN JABER: Ms. Lee, you have the date?

6 MS. LEE: Yes. The company was granted a waiver to
7 file their depreciation study April 30th, 2003, unless there
8 was a settlement in the rate case, at which time it would come
9 forth that they would come forward.

10 CHAIRMAN JABER: Come forth when?

11 MS. LEE: That date would be relooked at, come
12 forward, it would be a lot sooner than the April 2003 date.

13 COMMISSIONER DEASON: So when do we anticipate that
14 the next study will be due?

15 MS. LEE: It is my understanding talking with the
16 company, they can file a study by October the 30th of this
17 year, recognizing the settlement goes through.

18 MR. ELIAS: And, Commissioners, if I might add, we
19 recognize that one of the explicit terms of the settlement is
20 that depreciation rates will not change during the term of the
21 settlement, but we still see validity to the study and getting
22 the information and keeping tabs on it on a regular basis.

23 COMMISSIONER DEASON: Well, I'm glad we're having
24 this discussion because it's clarifying to me the purpose of
25 this latitude which is given to the company that it's really

1 not a cushion to be able to absorb earnings or unforeseen
2 circumstances. This is really an effort to get depreciation,
3 at least in the view of the company, to a level to where it
4 needs to be. That's what I understand the explanation. Am I
5 oversimplifying it, Mr. Evanson?

6 MR. EVANSON: Well, I think there are two aspects.
7 That's clearly one, and I think one that otherwise is
8 overlooked. But the second is certainly it helps, it does
9 cushion the earnings impact to the company on, from a
10 \$250 million rate cut.

11 COMMISSIONER DEASON: I guess what I'm, I'm hopeful
12 that we can avoid, and it gives me some comfort in your
13 representation that this is really an effort to get
14 depreciation reserves, not the rates, the rates stay the same,
15 get the depreciation reserves in the long-term where they, they
16 need to be.

17 We know that if, if we underdepreciate or
18 overdepreciate, there has to be corrective measures taken after
19 the next study. And my effort, I mean, my concern is try -- I
20 want the depreciation reserves to be as accurate as possible.
21 I want to hopefully avoid though erratic changes in
22 depreciation rates. And I know that this agreement keeps rates
23 frozen, depreciation rates frozen during the entire period. I
24 would hope that after the conclusion of this settlement, if it
25 is approved, that we would not find ourselves in a situation

1 where depreciation reserves are way out of balance from where
2 they should, theoretically should be. And you've given me the
3 indication that you think this is a step in the right direction
4 to get those, actually to get those, as a positive thing to get
5 the reserves where they should be.

6 MR. EVANSON: Right.

7 COMMISSIONER DEASON: I'm looking for some feedback
8 from Staff. Does Staff share that view or does Staff feel like
9 that it's just too unpredictable at this point to forecast that
10 far ahead as to where depreciation reserves should be?

11 MS. LEE: Commissioner, I think it's too early to
12 tell, as the story goes.

13 I am concerned with the company's statement that all
14 of the sudden their plant is, quote, overdepreciated. My
15 personal opinion is this reversal of depreciation expense, if
16 you will, is a cushion, a management of, to help them manage
17 earning. And it's interesting, at least to me, that the prior
18 stipulation where the company was recording additional
19 depreciation expense, and I think it was in the magnitude of up
20 to \$100 million a year in discretionary amortization expense,
21 and the caveat was that that accelerated amount would not be
22 carried forward in the design of depreciation rates. Follow me
23 through, you're booking additional depreciation expense, which
24 would, if it was included in the reserve, would lower your
25 depreciation rate. That stipulation did not allow us to

1 include it in the depreciation rate design.

2 Now when it's going the other way, they're going to
3 credit the, the expense, they want that included in the
4 depreciation, depreciation rate design next time, which will
5 lower depreciation rates even further.

6 COMMISSIONER DEASON: We have -- under the previous
7 stipulation though we have accumulated some \$170 million in
8 recognition of that additional, additional depreciation.

9 MS. LEE: Right.

10 COMMISSIONER DEASON: And that that's going to be the
11 first item which is going to be addressed in the flexibility of
12 the company to book \$125 million per year; correct?

13 MS. LEE: Exactly. Essentially reversing that out.
14 Uh-huh.

15 COMMISSIONER DEASON: Okay.

16 CHAIRMAN JABER: Commissioners, any other questions?

17 COMMISSIONER BRADLEY: Yes, I have a question.

18 Item 13, and by no means am I encouraging an
19 increase, but I just need some explanation of Item 13. You
20 know, one of your service areas is Dade County, and I'm just
21 curious as to what the impact of Item 13 is going to be upon
22 your quality of service if, in fact, we have another no-name
23 storm come through South Florida. What are your plans to, to
24 deal with that, if we have another catastrophic event such as
25 what we had a couple of years ago?

1 MR. LITCHFIELD: We do have reserves. This is Wade
2 Litchfield on behalf of FPL. We do have a storm fund reserve
3 which would be used as well as insurance proceeds to finance
4 reconstruction of any portion of the system that happened to be
5 taken down by a major storm. We would hope that would be
6 sufficient.

7 To the extent that it wasn't and we needed additional
8 funds, we would make that request of the Commission at that
9 time. But that is our plan.

10 We had asked to increase the accrual in the reserve
11 in the storm fund, but as part of the give and take in the
12 course of reaching a settlement we had agreed to withdraw a
13 request in that regard. We feel, however, though that we have
14 the good faith of the Commission backing us, as well as, to
15 some extent, the reserves and the insurance proceeds to back us
16 in those instances.

17 COMMISSIONER BRADLEY: One other question.

18 CHAIRMAN JABER: Uh-huh. Go ahead.

19 COMMISSIONER BRADLEY: Now this is not going to
20 result in any layoffs within your labor force, is it? I'm
21 thinking about the crews that need to be available.

22 MR. LITCHFIELD: The agreement of the -- the
23 settlement agreement will not result in layoffs, is that your
24 question, Commissioner Bradley?

25 COMMISSIONER BRADLEY: Yes. Will it?

1 MR. LITCHFIELD: Will it?

2 COMMISSIONER BRADLEY: Yes.

3 MR. EVANSON: Well, I wouldn't say the settlement as
4 such would, but we continually and regularly look at improving
5 our operations and our productivity. And I'd say over the
6 whole decade of the '90s we have regularly perhaps made
7 reductions of one kind or another in personnel; some years
8 greater, some years not.

9 So this, this in and of itself doesn't change that,
10 although it certainly makes it more challenging to achieve what
11 people might consider satisfactory return because there will be
12 a lot of pressure on the company to try to make those
13 satisfactory returns. But we're not going to do it. We're not
14 going to jeopardize service in any way as a result of that.

15 COMMISSIONER BRADLEY: Okay.

16 CHAIRMAN JABER: Just to follow-up, just to drive
17 this point home, one of the things, frankly, I was impressed
18 with as I went to your service hearings in particular was the
19 amount of customers that came out in support of FP&L's service.
20 And only a handful in terms of -- you know, it's all relative,
21 I'm sure. But in terms of how many customers you serve, it was
22 just a handful of people that were not pleased with your
23 quality of service. And as I recall, those concerns were
24 immediately addressed by your staff, and there were a lot of
25 concerns with respect to the rate levels.

1 But similar to Commissioner Deason, I guess I'm
2 looking for your assurance that if we accept this settlement at
3 the end of the discussion, that the good quality of service
4 that you do provide will not be jeopardized in any manner.

5 MR. EVANSON: That's absolutely so. And the
6 agreement that we're entering into is really very similar and
7 analogous to the agreement that we entered into three years
8 ago. And I think, as you noted, the quality of service has
9 actually improved significantly during that three-year period.
10 So our intention is clearly to try to continue that going
11 forward, and this will in no way, signing this, approving this
12 agreement would in no way jeopardize that.

13 CHAIRMAN JABER: Commissioners, any other questions?

14 COMMISSIONER PALECKI: I'd just like to ask a
15 follow-up question to Commissioner Bradley's inquiry, inquiry
16 regarding the storm damage reserve.

17 I recollect that this reserve fund was created after
18 Hurricane Andrew because it was impossible to get reasonable,
19 reasonably-priced insurance after that disaster.

20 Has that situation changed in Florida Power & Light's
21 territory and do you have a situation now where you can
22 purchase insurance at a more reasonable rate?

23 MR. EVANSON: The insurance has improved a little
24 bit. Certainly right after Hurricane Andrew you could not get
25 any insurance coverage at almost any reasonable price. It has

1 improved, but I think the, the economics is such that to the
2 extent you can reasonably build the fund, it's more economic to
3 do that than to purchase insurance. And what we've tried to do
4 is get a mix of the two because the insurance gives you a big
5 benefit day one, big coverage day one; whereas, the fund builds
6 up over time.

7 COMMISSIONER PALECKI: What is the level of the fund?

8 MR. EVANSON: So we don't, we still don't have
9 insurance more, the levels necessarily that we'd like or the
10 rates the way they are. I think now it's about \$100 million of
11 insurance coverage. At the time of Hurricane Andrew it was
12 \$350 million with a premium of about, I believe it was
13 \$3 million, maybe even less. It was like a one percent. So
14 since then the percentage premiums have increased
15 significantly.

16 COMMISSIONER PALECKI: So your situation now is that
17 you're insured in the amount of \$100 million?

18 MR. EVANSON: \$100 million, \$100 million at certain
19 levels.

20 COMMISSIONER PALECKI: And that's in addition --

21 MR. EVANSON: It's kind of complicated because there
22 are deductibles and then it goes in certain levels.

23 COMMISSIONER PALECKI: And that's in addition to the
24 storm fund?

25 MR. EVANSON: Yes.

1 COMMISSIONER PALECKI: Thank you.

2 CHAIRMAN JABER: Commissioner Baez?

3 COMMISSIONER BAEZ: Just one follow-up on that
4 because this Section 13 of the -- is Section 13 creating a
5 right of recovery that didn't exist before? Does the
6 agreement, is the agreement offering you the ability to come
7 back and, and recover prudently incurred costs in excess of
8 whatever the storm reserve was that didn't exist before?

9 MR. EVANSON: Well, no, it doesn't change, I think,
10 what was there before. Actually what, what makes the most
11 economic sense, and I think what we came in and requested some
12 time ago from the Commission after Hurricane Andrew was, was an
13 agreement or a rule from the Commission that to the extent that
14 there were losses, significant losses from the storm, that we
15 would have the ability to recover them via a clause over a
16 three-to-five year period. That's probably -- that's more
17 economic, makes more economic sense, you might say, using that
18 word generally, than it is even to set up a fund.

19 But the Commission at that time said that that logic
20 made a lot of sense and, to the extent you are short, why don't
21 you come in and we'll talk about it then? And I think what
22 this is doing is continuing that same logic. So there's not a
23 change in my mind in the substance of where we were before that
24 provision.

25 COMMISSIONER BAEZ: Thank you.

1 CHAIRMAN JABER: Commissioner Bradley?

2 COMMISSIONER BRADLEY: Yes. Just to, not to belabor
3 the point, but so then the Commission should assume then that
4 you have sufficient funds to cover a catastrophic event at this
5 time in this particular reserve fund?

6 MR. EVANSON: No. We, we have, we have what we think
7 is adequate for most occurrences. But I could tell you surely
8 if a storm like Hurricane Andrew hit Miami and came right up
9 the east coast through Palm Beach, there would not be nearly
10 enough assets in that fund in insurance and it would be a
11 significant impact to the company, and there's no doubt I would
12 be here before you asking for some kind of special relief on it
13 because you could be talking about billions of dollars in that
14 case.

15 COMMISSIONER BRADLEY: Okay.

16 CHAIRMAN JABER: Mr. Shreve, we've had some
17 discussion this morning. Is there anything that you've heard
18 this morning that changes your opinion or your involvement in
19 this settlement being, in your opinion, a good settlement?

20 MR. SHREVE: No, Commissioner, there's not. And I do
21 have a couple of comments, if I may.

22 I don't really have any argument or disagreement with
23 Mr. Wiseman's statements on the issues that he made. As you
24 know, we come in with what we consider a strong case and put
25 forth every issue before this Commission that we feel is

1 justified and credible. I will have to say we have not always
2 won on the issues that we have, even though they're totally
3 justified, and we always intend to put on that strong case,
4 knowing we won't necessarily win on every issue and certainly
5 the company will not win on every issue. So we take that into
6 consideration.

7 Our case actually issue by issue would have called
8 for larger cuts in some issues than Mr. Wiseman's would, and I
9 think he did a good job in putting those issues together.

10 Some of the parties filed for less of a rate
11 reduction than we have in the settlement. So I think you have
12 to take it in perspective. If we could get some type of
13 assurance from the Commission that we could have our way on all
14 the issues, you'd be surprised what we'd have.

15 CHAIRMAN JABER: We'll see what we can do.

16 MR. SHREVE: But we don't have that assurance.

17 CHAIRMAN JABER: We'll see what we can do for you.

18 MR. SHREVE: Well, I appreciate that, and y'all have
19 done well. You've provided us an opportunity here to file and
20 get the discovery. And on the discovery, we, of course, have
21 had some arguments with Florida Power & Light, as we do with
22 all the utilities on the discovery, sometimes they're things
23 that we think we might be entitled to that they might disagree
24 and we come to you and have those straightened out. And I
25 think we have, we've certainly had arguments in this case. I

1 think we've availed ourselves of the procedures and done well
2 and had good cooperation with some disagreement on what we
3 should have.

4 Back to the point about the issues. We understand
5 that and we'll always continue to put forth the strongest
6 credible issues we can.

7 The Commission is not, does not lose any authority in
8 this. As you know, and the parties have discussed this, we do
9 not take away any of your authority to bring Florida Power &
10 Light back, if you deem to at some time in the future, just
11 like you did this last time. And Mr. Wiseman may have done the
12 wise thing -- that's a bad pun -- the correct thing here. I
13 mean, the other parties are bound by this that have signed on
14 the stipulation. Mr. Wiseman has not, so the Hospital
15 Association, I think if they decided they wanted to pursue
16 something in addition at a later time, they could. I don't
17 think they're bound in some ways the same way the other parties
18 are.

19 Just to go into a little of the logic or background
20 of this agreement and possibly some other agreements. And, you
21 know, we've had quite a few stipulations that have come out. I
22 guess the first really -- now we started having stipulations
23 with some refunds in cases before basically on overearnings.
24 Then we moved into really an incentive-type stipulation with
25 Bell was the first really large one where we had a \$300 million

1 rate cut with refunds that amounted to over, over \$300 million
2 during the four-year term of that agreement.

3 We then tailored things differently with Florida
4 Power & Light and with Gulf in the last one because I think
5 using the revenue as a measurement rather than ROE, it puts the
6 customers in a position to benefit from the funds while putting
7 the company, of revenues, while putting the company in a
8 position to go ahead and take advantage of whatever
9 efficiencies that they can. And even though they do that,
10 where in the past we might have had an argument about ROE, we
11 don't have that argument because we're dealing with revenues.

12 Some of the reasons that we're able to get the
13 decrease in the last case was because of the write down of the
14 assets which you had going on for several years. We were able
15 to take advantage of that and that's the reason we were able, a
16 large part of the reason we were able to get the decreases we
17 were last time.

18 I think that the settlement last time where we
19 received all the benefits on a revenue basis put the company in
20 a position to better manage, to be more efficient, while not
21 taking away any of the service oversight that you have, they
22 still have to tow the mark on that and everyone expects that,
23 but they had to be more efficient, cut costs. And by tailoring
24 the agreement the way we did, we now are able to take advantage
25 again at this point of those same efficiencies that were caused

1 by the last agreement. And I would look forward to this
2 happening in the future.

3 The Commission does not have the authority to order
4 refunds except in a situation where we have an interim rate
5 decrease, we come in and put the order in and get the stake in
6 the grounds. If you could come in here and order that the
7 company refund everything above the top of the range, I would
8 accept it in a minute and it would be great, but you don't have
9 that.

10 In this situation we have what I consider a very
11 large justified rate cut. The company's filing after 9/11,
12 which really impacted this case and Florida Power's case, we
13 had to take that into consideration because revenues dropped
14 and their estimates dropped by over \$100 million. We had to
15 take that into consideration.

16 Now what we've done is got a large increase here with
17 a safety net for the customers because if the, if we've left
18 money on the table, those sales come back, then we are going to
19 share in that two-thirds or a certain part of it and then get
20 everything back above that. This is one reason to tailor
21 agreements because you don't have that authority, and we can do
22 that, give the company some comfort and certainly give the
23 customers and all of our parties some comfort there. And
24 that's one of the reasons that I feel to go forward with a
25 settlement because we're in a position to go ahead and work

1 things both ways, where in your situation you could come out,
2 have a rate cut ordered, we'd have a bottom of the range, top
3 of the range, and the only way we'd get any money out of them
4 later is to bring them back in, bring them down to the top of
5 the range with another rate case. This way we're going to be
6 able to participate in that so that the rate cut is not the end
7 of it. If it is the end of it, then it means we probably got
8 as much as we possibly could have gotten under the
9 circumstances and they didn't bring anything else, didn't have
10 anything else fall out on the table and we didn't leave
11 anything there.

12 CHAIRMAN JABER: Mr. Shreve, also just on that point,
13 in terms of the rate case expense to go forward with a
14 proceeding, what was the company asking for in terms of
15 recovery for rate case expense? Do you recall?

16 MR. SHREVE: I don't recall and it had not been
17 completed, as I understand it.

18 CHAIRMAN JABER: FP&L, can you give me a number?

19 MR. SHREVE: \$10 to \$11 million, which --

20 CHAIRMAN JABER: \$10 to \$11 million in rate case
21 expense.

22 MR. SHREVE: Yes. Right.

23 CHAIRMAN JABER: So in terms of going forward with a
24 proceeding, it's the retail customers that pay the cost of
25 litigation.

1 MR. SHREVE: That's correct in all of the cases, not
2 just the power case. But that's right. And that would have
3 continued to increase. And, of course, that's something the
4 company is going to have to eat at this point.

5 So like I say, I understand Mr. Wiseman's positions.
6 We had positions that would be comparable, not less in any
7 situation. Some of the other parties accepted our position,
8 some of the other parties came in actually with lower than we
9 have in the final settlement.

10 So I'm very pleased with the settlement. I
11 understand where Mr. Wiseman is coming from. I don't think he
12 is precluded from bringing any actions in the future, as
13 certainly the Public Service Commission is not precluded and
14 you can do whatever you feel is necessary at any time. And we
15 feel -- I feel that this is a good result.

16 CHAIRMAN JABER: Staff, I want to ask you the same
17 question I asked Mr. Shreve. Is there anything you heard today
18 that changes your recommendation?

19 MR. MAILHOT: No, there's not.

20 CHAIRMAN JABER: Okay. Thank you. Commissioner
21 Bradley, did you have a question?

22 COMMISSIONER BRADLEY: I'd like to make a motion.

23 CHAIRMAN JABER: Okay. Let me set the stage for the
24 motion, if you don't mind.

25 COMMISSIONER BRADLEY: Okay.

1 CHAIRMAN JABER: Commissioners, I don't know what the
2 motion will be and I certainly don't know what the vote will be
3 at the end of the day, but I want to bring us back to how we
4 started this proceeding and have that be part of your
5 consideration and just sort of make a bare statement before we
6 conclude.

7 When we initiated the proceeding, I want to take you
8 back to what the circumstances had been, there was an interim
9 report coming out of the Energy Commission that made certain
10 recommendations and asked the Commission certain questions
11 that, frankly, we could not answer because it had been a number
12 of years since anyone looked at FPL's base rates and their
13 earnings levels. That's one factor.

14 There was the discussion of a Transco, original
15 transmission organization, but a broader RTO, and we couldn't
16 with comfort understand what the cost of transmission would be
17 and the impact on the retail ratepayers. There was the
18 discussion of a merger that subsequently failed, but we wanted
19 to understand where the efficiencies were to be gained by the
20 retail ratepayers and what benefits should be flowed through to
21 the retail ratepayers.

22 And finally I know as one Commissioner I had heard
23 many, many complaints and received many, many E-mails related
24 to what FP&L's rates were. And you may recall, we just felt
25 like that had gone on too long and it was time for the PSC to

1 take action and we did. And we set the course of initiating a
2 proceeding and our Staff has done a tremendous job in gathering
3 the data and giving me personally a comfort level that we have
4 thoroughly reviewed where the base rates are now and are
5 comfortable with the settlement.

6 The merger has failed and I know that we've looked at
7 where those efficiencies are and where the benefits to the
8 retail ratepayers belong and how incentive-based approaches can
9 accomplish what we were trying to accomplish from day one.
10 That's sort of the historical perspective that I've had to come
11 back to in analyzing this settlement. It's easy to get excited
12 about a settlement because it closes out a proceeding. It's
13 very, very easy for me to get excited about a good settlement
14 that I know benefits Florida citizens at the end of the day
15 because not only does it put money back in their pocket,
16 especially after September 11th and tough economic times, but
17 it gives us comfort in answering their questions, it gives us
18 comfort in saying to them quality of service at FP&L is good,
19 and it gives me comfort in saying all the parties, but for one,
20 and that's okay, have come to the table, the consumer advocates
21 have come to the table and represented that this is a good
22 settlement on the behalf of the citizens of the State of
23 Florida.

24 Commissioner, you have a motion?

25 COMMISSIONER DEASON: Madam Chairman, if you could

1 indulge me for just a moment before the motion and, please.

2 Commissioner Bradley, if I may.

3 I'm not going to make a motion but I just want to say
4 something. And I, I think that -- and like you, Madam
5 Chairman, I don't know what the motion is going to be or what
6 the vote is going to be at the end of today. But I think
7 that -- I think this Commission -- to some extent, the
8 Commission and obviously the Staff should recognize that in
9 order for a settlement to be brought forward, regardless of
10 whether this is voted up or down, but for a settlement to be
11 brought forward, I think it speaks volumes on the effectiveness
12 of regulation in this state because I do not think that unless
13 regulation is strong and effective, yet fair, you've got to
14 have those, that's a prerequisite for the parties to feel
15 comfortable coming forward with even proposing a stipulation.
16 And if this Commission was predisposed to favor one side or
17 another, I don't think we would ever see a settlement. We'd
18 always be in a hearing mode and we'd be making decisions that
19 way. And that's not a bad thing, but I think settlements offer
20 a lot. I think they offer parties the ability to be
21 innovative, look at things in a different light and provide
22 flexibilities that in a very strict regulatory role sometimes
23 we're prohibited from doing.

24 So I think the fact that the parties have brought
25 forth a settlement is a very positive thing. I think it speaks

1 well of the regulation that exists in this state and has
2 existed for a period of time, for a long period of time. I
3 think this Commission has been cognizant of the changes that
4 have been happening in the industry. We have tried to be
5 forward looking.

6 Florida Power & Light approached this Commission
7 years ago with the idea that there were a number of assets on
8 their books which really did not belong there as we approached
9 a more competitive environment, and I think this Commission
10 took action to try to recognize that and eliminate those
11 regulatory assets off the books. We also looked at their,
12 their depreciation levels and determined that the amount of
13 depreciation and the reserves needed to be looked at and to be
14 more reflective of companies that may be entering into a
15 competitive environment.

16 To some extent I'm comforted by the fact that
17 apparently we've reached our goals because the company now is
18 saying that, if anything, they may be in an overly depreciated
19 state, and I guess that's where the flexibility comes in to, to
20 address that.

21 I think Mr. Shreve has indicated that we certainly
22 retain our full ability to, to maintain our jurisdiction over
23 the quality of service of this company. And I, I recognize
24 the, the improvements that have been made, that Mr. Evanson
25 identified, and that we as a Commission, I think, would expect

1 that that high quality of service continue. And I think we've
2 gotten an indication from the management that it is their
3 desire to not only maintain but to constantly strive to improve
4 the quality of service that's provided to their customers.

5 So I, I also want to reiterate something that you
6 said, Madam Chairman, and it's something that is identified in
7 the, in the "whereases" to the stipulation, and that is the
8 fact that there has been a full set of minimum filing
9 requirements filed in this proceeding, there has been
10 comprehensive testimony filed, there's been extensive
11 discovery. I think that this, if this settlement is approved,
12 that it is consistent with the idea that we have conducted a
13 thorough rate review for this company. And I think it would be
14 unfair to say that this Commission has not conducted a thorough
15 rate review for this company because we would have. I think
16 that all of the information is there.

17 There's one other thing that I would like to mention,
18 too, and that is that parties, when they present their, their
19 positions to the Commission, I think that they, they take firm
20 positions and they do a very credible job advocating for their
21 particular clients and their positions, but it's advocacy. And
22 I don't think anyone really fully expects that when they file
23 testimony, that they're going to win on 100 percent of every
24 position that they filed. And that goes for intervenors as
25 well as the company. And I think that what we as a Commission

1 need to do. we need to balance what we have here in front of
2 us. the certainty that it brings and the immediate benefits
3 that it brings with the uncertainty that may be the result of a
4 full. a full hearing. So those are my comments.

5 CHAIRMAN JABER: I think we better take statements
6 before we take up the motion. So, Commissioner Baez, let me
7 defer to you for the next statement. But let me also recognize
8 that you are the prehearing officer on this case and, absent
9 your leadership, not to take away from the efforts of the
10 parties, the tremendous efforts of all the parties, but if it
11 wasn't for your leadership in bringing this case forward in the
12 time scheduling that you have and with the insistence that you
13 have that the issues be clearly defined and that all parties
14 have an opportunity to present their prefiled testimony in the
15 fashion that they did, I don't think we would have gotten that
16 far. So I'd take an opportunity to commend you and also
17 recognize you for comments.

18 COMMISSIONER BAEZ: Thank you, Madam Chairman. On
19 time and under budget, I guess.

20 CHAIRMAN JABER: Overworked and underpaid.

21 COMMISSIONER BAEZ: Overworked and underpaid. We
22 don't even have to talk about that.

23 You know, last night I was thinking about, you know,
24 how all this was going to happen and what I might have to say
25 about it. And I think when we opened the docket, I guess it

1 was back in July, June or July. I. I thought I might have
2 detected a tinge of nostalgia over the opening of some kind of
3 rate review. And I realized that that was just a cold chill
4 that -- I think back about Scrooge, you know, the ghosts of
5 rate cases past and so on.

6 Going back to something that Commissioner Deason had
7 said, which I think really expresses how I feel about this. I
8 think, you know, he makes the point that we do have a complete
9 record, and I think that in and of itself sort of expresses
10 what, what kind of role this Commission, this new Commission,
11 as the Chairman likes to say, has tried to carve out for
12 itself. And I think that's, that's a shining example of it.

13 And at this point I want to compliment the Staff.
14 I'm not given to do this, I'm not given to doing this publicly,
15 but I have a lot of residual guilt, so I want to. I want to say
16 it out loud.

17 Y'all have been terrific with this. Whatever nice
18 things the Chairman said about me I owe all to you because
19 you've kind of, you've always been there to answer my questions
20 and, and to tell me, tell me your, your reason, thoughts on, on
21 certain issues, and I think that in large part has been a
22 reason why this thing, you know, this, we've gotten to this
23 point today.

24 Again, going back to what Commissioner Deason said,
25 we don't get negotiated agreements if we don't have complete

1 records, if our Staff and the Commission hasn't sought out to
2 let's lay the issues bare and let's give everyone a, a
3 well-leveraged position to negotiate with. I think that's, I
4 think that's crucial to this, to this part. And what it really
5 all adds up to is a light touch of, of regulation, and I
6 commend the Staff and I commend the rest of the Commissioners
7 for that as well.

8 Let's not forget this lesson. Let's not forget this
9 feeling, because I think it can do us all some good. This is
10 the way, certainly from my perspective this is the way that I
11 would like things to proceed. And obviously nothing --
12 everything didn't go perfectly and there's always some, some
13 aspects of processes and aspects of dockets and how, how the
14 parties work together that we can always look to improve, but I
15 think we can all be proud of ourselves to this result. And I
16 guess everybody has been disclaiming the result of a vote and
17 so on, and I'll join them in that as well. But I think the
18 fact that we have a product that certainly a majority of the
19 participants have stood up and said they're proud of, that they
20 think is a good result certainly comforts me.

21 For one, I know how hard Mr. Shreve goes at it, so,
22 so the fact that, that his -- simply put, his opinion means a
23 lot on this because he does such a good job of representing the
24 ratepayers. And certainly the company coming forward in a
25 reasonable manner and also endorsing this agreement gives great

1 comfort as well. And I'd like to get a motion on the floor to
2 join. I want to thank you all.

3 CHAIRMAN JABER: I think Commissioner Palecki wanted
4 to make a statement.

5 COMMISSIONER PALECKI: I have just a very brief
6 statement. First, I'd like to thank all of the parties and our
7 Staff for the hard work that they've done in this docket. This
8 has been a very thorough, comprehensive and exhaustive review
9 of Florida Power & Light's operations. And I believe as a
10 result of the thoroughness of the discovery that was done in
11 this docket the parties were able to negotiate from a position
12 of strength. And I believe that's why we're here today with
13 what I think is a very favorable settlement.

14 I'd like to reiterate something that Chairman Jaber
15 pointed out earlier. We went to seven customer service
16 hearings in seven different communities and heard from the
17 customers of Florida Power & Light in those communities, and we
18 heard very few negative comments. Most customers who attended
19 those customer service hearings testified as to the high
20 quality of service they were receiving from Florida Power &
21 Light. I know that what we heard at the customer service
22 hearings is also borne out in the level of customer complaints
23 that we receive from Florida Power & Light. They have been
24 very low. And this is something that hasn't always been the
25 case. Five, seven years ago the quality of service was not

1 what we see today, and Florida Power & Light is to be commended
2 for showing tremendous improvements in the quality of service
3 in their territory. I know our own data that we collect from
4 the utility shows that the level of outages and interruptions
5 to Florida Power & Light's customers have decreased over the
6 last five years.

7 I believe that Florida Power & Light has shown that
8 they are an efficient, well-run company providing low cost,
9 high quality service, and I believe that the ratepayers of the
10 State of Florida will benefit from this settlement.

11 CHAIRMAN JABER: Thank you, Commissioner Palecki.

12 Commissioner Bradley, we're going to let you make the
13 motion. I hope you make the right one.

14 MR. LITCHFIELD: Madam Chairman, if I might before
15 that happens.

16 CHAIRMAN JABER: Go ahead, Mr. Litchfield.

17 MR. LITCHFIELD: For purposes of clarification, we
18 have two requests before the Commission today. One, to ask
19 that you accept and approve the, the stipulation and settlement
20 agreement, and the other, to implement the midcourse correction
21 in the fuel adjustment clause.

22 CHAIRMAN JABER: Right. Those are Issue 1 and
23 Issue 2 respectively, if I'm not mistaken. Yes.

24 MR. LITCHFIELD: Yes. Thank you.

25 CHAIRMAN JABER: We're voting out the recommendation.

1 Commissioner Palecki, would you like to make a motion on each
2 issue or do you want to do it in one?

3 COMMISSIONER DEASON: Commissioner Bradley.

4 CHAIRMAN JABER: What did I say?

5 COMMISSIONER DEASON: Palecki.

6 CHAIRMAN JABER: Okay. Commissioner Bradley, do you
7 want to make a motion on everything?

8 COMMISSIONER BRADLEY: I'd like to make a motion on
9 everything in block.

10 But, first of all, let me say this, with all due
11 respect to the Florida Hospital Association, it's very unusual
12 to have nine parties come together and to have everyone agree.
13 It's exceptional when you have eight of nine agree to the
14 proposed stipulation and agreement and to come in here today
15 and to be willing to sign that document.

16 Having served in the Florida Legislature for many
17 years and having dealt with many issues that were very, very
18 contentious and in some instances debated for long periods of
19 time, I grew to have a vast amount of respect for Mr. Paschall
20 and, and Mike Twomey. And believe you me, if they agree to the
21 settlement, it must be good for, for the ratepayers and the
22 consumers of Florida because I don't think I've ever had them
23 agree to, to anything that I've listened to debate about
24 because they were dead set against some things that were
25 involved in the process and they let it be known. So that in

1 itself sends a strong message to me.

2 Mr. Shreve, I can tell you that your reputation
3 preceded my first meeting with you and me getting acquainted
4 with you. You have a reputation for working to ensure that the
5 ratepayers of Florida get a fair shake in every proceeding.

6 That's, these -- just to have these three people here
7 today saying that this is a good agreement or a good situation
8 for the ratepayers of Florida sends a strong message to me and
9 hopefully it sends the same message to my counterparts on this
10 Commission.

11 Therefore, what I would like to do is this. I would
12 like to support Staff's recommendation, and that is to have the
13 Commission enter a final order today in block taking in both
14 issues. And I would urge my fellow Commissioners to vote with
15 me to, to, in support of that final order.

16 CHAIRMAN JABER: Thank you, Commissioner Bradley. We
17 have a motion to accept Staff's recommendation to approve the
18 proposed stipulation and settlement in Issue 1, and a motion to
19 accept Staff's recommendation to approve FP&L's petition for
20 adjustment to its fuel adjustment factors as contained in Issue
21 2, and a motion to close this docket by final agency action in
22 Issue 3. Need a second.

23 COMMISSIONER PALECKI: I would second the motion.

24 CHAIRMAN JABER: The motion and a second. All those
25 in favor, say aye.

1 (Simultaneous affirmative vote.)

2 CHAIRMAN JABER: Show Item 12A. Staff, approved
3 unanimously. That concludes this agenda conference.

4 MR. ELIAS: There is a fourth issue with respect to
5 --

6 CHAIRMAN JABER: Oh. After close the docket?

7 MR. ELIAS: It's a fuel docket.

8 CHAIRMAN JABER: And, Commissioner Bradley, your
9 motion included keeping the fuel docket open?

10 COMMISSIONER BRADLEY: Yes.

11 CHAIRMAN JABER: And we had a second to that and we
12 voted unanimously, Mr. Elias. Thank you.

13 I want to take an opportunity to congratulate all the
14 parties and to thank you for your cooperation in bringing this
15 all together.

16 Mr. Shreve, I wanted to close in particular with you
17 by telling you you are far too humble in your efforts. You are
18 an outstanding public servant and I congratulate you in
19 particular.

20 FP&L, I hope other companies take your lead. And,
21 also, now that I know that you are capable of coming to the
22 table, guess what? I'll expect it over and over again. Mr.
23 Shreve?

24 MR. SHREVE: Commissioners, if I may, and now that
25 the vote has been taken, this certainly can't be intended to

1 sway anyone. I wanted to tell you that I think this
2 Commission, all of you, thank you for your remarks, Mr. Bradley
3 and everyone, this result is in large, large part to your
4 credit. And the Staff of the Public Service Commission has
5 worked very hard on this. All of the parties without exception
6 have been a pleasure to work with and worked diligently. Paul
7 Evanson, Bill Walker and Bill Feaster (PHONETIC) have been
8 great to try and, although we didn't always agree, negotiate a
9 settlement with.

10 And I would like to last, we have a relatively small
11 staff, but Roger Howell and Billy Dee Smith, you couldn't
12 believe the work they put in and what they accomplished. Thank
13 you.

14 MR. EVANSON: Could I add my -- could I echo Mr.
15 Shreve's comments? I think it was, this is a fair settlement,
16 give and take on all sides, but I'm especially pleased that it
17 continues incentive-based regulation in the state that Jack and
18 FPL and the Commission and the Staff have really supported. I
19 think it makes Florida a model for how states ought to regulate
20 wires companies and I think it's a giant step forward. And I
21 thank the Commission and I thank the Staff for all its
22 constructive work and being part of this process, and we really
23 have enjoyed working with you, with all of you. Thank you.

24 CHAIRMAN JABER: Thank you, Mr. Evanson.

25 MR. SHREVE: And although I would like to have had

1 him have the last word --

2 CHAIRMAN JABER: I think Mr. Twomey should have the
3 last word.

4 MR. SHREVE: He usually does.

5 I would like to say that -- one thing I had wanted to
6 mention. This is a \$600 million rate reduction since '99 with
7 hundreds of millions of dollars of refunds and more to come,
8 and I don't know of any utility in the country that has
9 accomplished this and I don't know of any Public Service
10 Commission in the country that has accomplished this and you're
11 to be congratulated.

12 CHAIRMAN JABER: Thank you, sir. We're done. Go
13 home.

14 (Concluded at 10:05 a.m.)

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1 STATE OF FLORIDA)

2 : CERTIFICATE OF REPORTER

3 COUNTY OF LEON)

4

5 I, LINDA BOLES, RPR, Official Commission
6 Reporter, do hereby certify that the foregoing proceeding was
heard at the time and place herein stated.

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

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

13 DATED THIS 27TH DAY OF MARCH, 2002.

14

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LINDA BOLES, RPR
FPSC Official Commissioner Reporter
(850) 413-6734

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APPENDIX B

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail
rates of Florida Power & Light
Company.

DOCKET NO. 001148-EI

In re: Fuel and purchased power
cost recovery clause with
generating performance incentive
factor.

DOCKET NO. 020001-EI
ORDER NO. PSC-02-0501-AS-EI
ISSUED: April 11, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING SETTLEMENT, AUTHORIZING MIDCOURSE CORRECTION,
AND REQUIRING RATE REDUCTIONS

BY THE COMMISSION:

I. CASE BACKGROUND

Docket No. 001148-EI was opened on August 15, 2000, to review Florida Power & Light Company's (FPL) proposed merger with Entergy Corporation (Entergy), the formation of a transco, and their effects on FPL's rates and earnings. On April 2, 2001, FPL Group, Inc. announced that the proposed merger with Entergy had been terminated. By Order No. PSC-01-1346-PCO-EI, issued June 19, 2001, in Docket No. 001148-EI, FPL was directed to file Minimum Filing Requirements (MFRs) to provide the Commission and all other interested parties the data necessary to begin an evaluation of the level of its earnings. FPL filed its initial set of MFRs on September 17, 2001, with additional filings on October 1, 2001, October 15, 2001, and November 9, 2001. FPL filed testimony on January 18 and 28, 2002. Hearings were scheduled for April 10-12, and 15-16, 2002.

DOCUMENT NUMBER-DATE

04049 APR 11 02

FPSC-COMMISSION CLERK

R. 11899

On March 14, 2002, the following documents were filed:

- Joint Motion For Approval Of Stipulation And Settlement
- Stipulation And Settlement
- Florida Power & Light Company's Agreed Motion To Suspend Schedule For Hearings And Prehearing Procedures And To Suspend Discovery (Agreed Motion)
- Petition Of Florida Power & Light Company For Adjustment to its Fuel Adjustment Factors

FPL's Agreed Motion was granted by Order No. PSC-02-0348-PCO-EI, issued March 14, 2002. By this Order, we approve the Stipulation and Settlement, and the Petition for Adjustment to FPL's Fuel Adjustment Factors. Jurisdiction over these matters is vested in the Commission by various provisions of Chapter 366, Florida Statutes, including Sections 336.04, 366.05, and 366.06, Florida Statutes.

II. STIPULATION AND SETTLEMENT

The Stipulation and Settlement (Stipulation) which is included in this Order as ATTACHMENT 1, and is incorporated herein by reference, is being proffered as a full and complete resolution of all matters pending in Docket No. 001148-EI. The Stipulation was signed by all of the parties except for the South Florida Hospital and Healthcare Association. The major elements contained in the Stipulation are as follows:

- \$250 million permanent base rate reduction effective April 15, 2002 (7.03% base rate reduction) (Paragraph 2)
- Continuation of a revenue cap and a revenue sharing plan for 2002 through 2005 (Paragraph 7)
- Discretionary ability to reduce depreciation expense by up to \$125 million annually (Paragraph 10)

- Withdrawal of FPL's request to increase the annual Storm Damage Reserve accrual (Paragraph 13)

As part of the Stipulation, FPL has requested a \$200 million mid-course correction to reduce its fuel cost recovery factors for the remainder of 2002, effective April 15, 2002. That petition is addressed in Section III of this Order.

The Stipulation recites 16 items of agreement among the signatories. Most of the provisions are self-explanatory, but several of the items merit comment or clarification. These are as follows:

PARAGRAPH 2: The \$250 million annual base rate reduction is an additional reduction over and above the previously implemented \$350 million annual rate reduction authorized in Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI.

The proposed Stipulation provides for a reduction in base rates of 7.03% for all rate classes except outdoor lighting and street lighting. The Stipulation also provides for a similar reduction in all service charges. It is appropriate to exclude the lighting classes because these classes are already significantly below parity. This allocation methodology differs from FPL's previous rate stipulations that allocated the reduction on a kwh basis. The percentage reduction in base rates is a better method of allocating a decrease because all classes receive the same percentage reduction in base rates. Under an energy allocation, a larger percentage of the total reduction goes to larger commercial and industrial customers relative to residential and small commercial customers.

In Order No. PSC-01-1346-PCO-EI, we stated that one of the reasons for requiring MFRs was to examine the rate relationships among classes. FPL's rate structure has not been formally reviewed since its last rate case in 1983. Since then, new classes have been added and customers have shifted among rate classes seeking more advantageous rates. Based on FPL's cost of service study, there are disparities among the rates of return by class. In a rate case, one of the goals of rate design is to set rates that reflect the costs to serve that class or, stated differently, to

set the rate of return for each class equal to the system rate of return. We recognize, however, that a Stipulation is a negotiated document with all participants making some concessions. While the proposed across-the-board percentage reduction does not move FPL's rate structure towards parity, it does not worsen it. Accordingly, we find that the across-the-board reduction is reasonable.

The Stipulation will result in a decrease of \$5.41 in the total monthly bill of a residential customer who uses 1,000 kilowatt hours, as shown on ATTACHMENT 2, Page 1 of 2. This decrease reflects both the base rate reduction and the fuel adjustment clause mid-course correction approved in Section III of this Order. The rate reductions will become effective for meters read on and after April 15, 2002.

PARAGRAPH 3: Per the terms of this provision, "FPL will no longer have an authorized Return on Equity (ROE) range for the purpose of addressing earnings levels." However, FPL will still have a currently authorized ROE range of 10.00% to 12.00%, with an 11.00% midpoint, for all other purposes, such as cost recovery clauses and Allowance for Funds Used During Construction.

PARAGRAPH 7: Although it is not explicitly stated in the Stipulation, 100% of the retail base rate revenues exceeding the retail base rate revenue cap will be refunded to retail customers on an annual basis.

PARAGRAPH 10: This provision is clarified to indicate that the up to \$125 million annual credit to depreciation expense is to be on a calendar year basis.

PARAGRAPH 13: FPL is withdrawing its request to increase its Storm Damage Reserve accrual by \$30 million annually.

PARAGRAPH 15: This provision states that all matters in Docket No. 001148-EI are resolved by the Stipulation and Settlement. While the ratemaking aspects of the docket are resolved, there are still issues that may need to be addressed in other forums, such as those related to GridFlorida and to FPL Energy Services.

We have reviewed the terms of the Stipulation, and it appears to be a reasonable resolution of the issues regarding FPL's level of earnings and base rates. The proposed \$250 million base rate reduction affords FPL's ratepayers significant and immediate relief. The Stipulation also extends the revenue cap and revenue sharing plan through 2005. Since the inception of the existing revenue sharing plan in 1999, FPL has refunded \$128 million to date and expects to refund an additional \$84 million for the year ended April 14, 2002. We find that the Stipulation and Settlement is in the best interests of FPL's ratepayers, the parties, and FPL, and is therefore approved.

III. FPL'S PETITION FOR AN ADJUSTMENT TO ITS FUEL COST RECOVERY FACTORS

Consistent with the Stipulation, FPL filed a petition in Docket No. 020001-EI seeking to reduce its levelized fuel cost recovery factor to 2.630 cents per kwh, effective April 15, 2002. This will have the effect of reducing the amount collected through the fuel adjustment clause by \$200 million during the last eight and one half months of 2002.

Absent this \$200 million reduction, FPL would experience an end-of-period (December 2002) net over-recovery amount of approximately \$211.2 million based on current projections. This amount represents 8.6% of FPL's total fuel and net power transactions costs as forecasted in its projection testimony in Docket No. 010001-EI. Since FPL filed its projection testimony in Docket No. 010001-EI, its forecasted 2002 fuel cost of system net generation has decreased by \$193.4 million. This reduction appears to be related primarily to a 12.2% drop in projected natural gas costs and secondarily to a 3.3% drop in retail energy sales.

In the interest of matching fuel revenues with fuel costs, FPL's proposal to refund part of its anticipated over-recovery balance to its ratepayers sooner rather than later is appropriate. Therefore, FPL's Petition for Adjustment to its Fuel Adjustment Factors is granted. The fuel cost recovery factors set forth in Attachment 2, page 2 of 2, which is incorporated herein by reference, shall become effective April 15, 2002. However, we have

ORDER NO. PSC-02-0501-AS-EI
DOCKETS NOS. 001148-EI, 020001-EI
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not yet analyzed the prudence of FPL's actual or projected 2002 fuel costs. The prudence of FPL's 2002 fuel costs will be addressed at the evidentiary hearing scheduled in Docket No. 020001-EI, commencing November 20, 2002.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Settlement and Stipulation filed on March 14, 2002, which is included in this Order as ATTACHMENT 1 and is incorporated by reference herein, is approved. It is further

ORDERED that FPL's Petition for Adjustment to its Fuel Adjustment Factors is granted. It is further

ORDERED that Docket No. 001148-EI shall be closed. It is further

ORDERED that Docket No. 020001-EI shall remain open.

By ORDER of the Florida Public Service Commission this 11th day of April, 2002.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

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ORDER NO. PSC-02-0501-AS-EI
DOCKETS NOS. 001148-EI, 020001-EI
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW
APPLICABLE TO SECTION II OF THIS ORDER

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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DOCKETS NOS. 001148-EI, 020001-EI
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW
APPLICABLE TO SECTION III OF THIS ORDER

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

Any party adversely affected by Section III of this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

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ATTACHMENT 1

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Review of the Retail Rates)
of Florida Power & Light Company) DOCKET NO. 001148-EI
_____)

STIPULATION AND SETTLEMENT

WHEREAS, the Florida Public Service Commission (FPSC) has initiated a review of retail rates for Florida Power & Light Company (FPL);

WHEREAS, the Office of Public Counsel (OPC), The Florida Industrial Power Users Group (FIPUG), Publix Super Markets, Inc. (Publix), Thomas P. and Genevieve Twomey, Dynegy Midstream Services LP, Florida Retail Federation and Lee County have intervened, and have signed this Stipulation and Settlement;

WHEREAS, FPL has provided the minimum filing requirements (MFRs) as required by the FPSC and such MFRs have been thoroughly reviewed by the FPSC Staff and the Parties to this proceeding;

WHEREAS, FPL has filed comprehensive testimony in support of and detailing its MFRs;

WHEREAS, the parties in this proceeding have conducted extensive discovery on the MFRs and FPL's testimony;

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WHEREAS, the Parties to this Stipulation and Settlement have undertaken to resolve the issues raised in this review so as to effect a prompt reduction in base rates charged to customers, to maintain a degree of stability to FPL's base rates and charges, and to provide incentives to FPL to continue to promote efficiency through the term of this Stipulation and Settlement;

WHEREAS, FPL is currently operating under a stipulation and settlement agreement (Current Agreement) agreed to by OPC and other parties, and approved by the FPSC by Order PSC 99-0519-AS-EI;

WHEREAS, the Current Agreement provided for a \$350 million permanent annual rate reduction for retail customers commencing April 15, 1999 and a revenue sharing plan under which \$128 million in refunds have been provided to retail customers to date, with \$84 million in additional refunds projected for the twelve-month period ending April 14, 2002; and

WHEREAS, an extension of revenue sharing through 2005, and an additional permanent rate reduction will further be beneficial to retail customers;

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

1. Upon approval and final order of the FPSC, this Stipulation and Settlement will become effective on April 15, 2002 (the "Implementation Date"), and continue through December 31, 2005.

2. FPL will reduce its base rates by an additional permanent annual amount of \$250 million. The base rate reduction will be reflected on FPL's customer bills by reducing all base charges for each rate schedule, excluding SL-1 and OL-1, by 7.03%. FPL will begin applying the lower base rate charges required by this Stipulation and Settlement to meter readings made on and after the Implementation Date.

3. Effective on the Implementation Date, FPL will no longer have an authorized Return on Equity (ROE) range for the purpose of addressing earnings levels, and the revenue sharing mechanism herein described will be the appropriate and exclusive mechanism to address earnings levels.

4. For surveillance reporting requirements, FPL's achieved ROE will be calculated based upon an adjusted equity ratio as provided for in the Current Agreement.

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, Publix, Thomas P. and Genevieve Twomey, Dynegy Midstream Services LP, Florida Retail Federation and

Lee County will neither seek nor support any additional reduction in FPL's base rates and charges, including interim rate decreases, to take effect prior to the expiration of this Stipulation and Settlement 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 the end of this Stipulation and Settlement, except as provided for in Section 8.

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.

7. Commencing on the Implementation Date and for the remainder of 2002 and for calendar years 2003, 2004 and 2005, FPL will be under a Revenue Sharing Incentive Plan as set forth below. For purposes of this Revenue Sharing Incentive Plan, the following retail base rate revenue threshold amounts are established:

I. Revenue Cap - Retail base rate revenues above the retail base rate revenue cap will be refunded to retail customers on an annual basis. The retail base rate revenue cap

for 2002 will be \$3,740 million. For 2002 only, the refund to customers will be limited to 71.5% (April 15 through December 31) of the retail base rate revenues exceeding the cap. The retail base rate revenue caps for 2003, 2004 and 2005 will be \$3,840 million, \$3,940 million and \$4,040 million, respectively. Section 9 explains how refunds will be paid to customers.

II. Sharing Threshold - Retail base rate revenues between the sharing threshold amount and the retail base rate revenue cap will be divided into two shares on a 1/3, 2/3 basis. FPL's shareholders shall receive the 1/3 share. The 2/3 share will be refunded to retail customers. The sharing threshold for 2002 will be \$3,580 million in retail base rate revenues. For 2002 only, the refund to the customers will be limited to 71.5% (April 15 through December 31) of the 2/3 customer share. The retail base rate revenue sharing threshold amounts for calendar years 2003, 2004 and 2005 will be \$3,680 million, \$3,780 million and \$3,880 million, respectively. Section 9 explains how refunds will be paid to customers.

8. If FPL's retail base rate earnings fall below a 10% ROE as reported on an FPSC adjusted or pro-forma basis on an FPL monthly earnings surveillance report during the term of this Stipulation and Settlement, FPL may petition the FPSC to amend its base rates

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notwithstanding the provisions of Section 5. Parties to this Stipulation and Settlement are not precluded from participating in such a proceeding. This Stipulation and Settlement shall terminate upon the effective date of any Final Order issued in such proceeding that changes FPL's base rates.

9. 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 retail customers of record during the last three months of each applicable refund period based on their proportionate share of base rate revenues for the refund period. For purposes of calculating interest only, it will be assumed that revenues to be refunded were collected evenly throughout the preceding refund 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 refund period. Refunds to former customers will be completed as expeditiously as reasonably possible.

10. In Order No. PSC 99-0519-AS-EI, FPL was authorized to record an amortization amount of up to \$100 million per year for each of the three years of the settlement agreement which was to be applied to reduce nuclear and/or fossil production plant in service. Under this

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provision, FPL recorded \$170,250,000. Starting with the effective date of this Stipulation and Settlement, FPL may, at its option, amortize up to \$125,000,000 annually as a credit to depreciation expense and a debit to the bottom line depreciation reserve over the term of this Stipulation and Settlement. The amounts so recorded will first go to offset the \$170,250,000 bottom line amortization amount that has previously been recorded, with any additional amounts recorded to a bottom line negative depreciation reserve during the term of this Stipulation and Settlement. Any such reserve amount will be applied first to reduce any reserve excesses by account, as determined in FPL's depreciation studies filed after the term of this Stipulation and Settlement, and thereafter will result in reserve deficiencies. Any such reserve deficiencies will be allocated to individual reserve balances based on the ratio of the net book value of each plant account to total net book value of all plant. The amounts allocated to the reserves will be included in the remaining life depreciation rate and recovered over the remaining lives of the various assets. Additionally, depreciation rates as addressed in Order Nos. PSC 99-0073-FOF-EI, PSC 00-2434-PAA-EI and PSC 01-1337-PAA-EI will not be changed for the term of this Stipulation and Settlement.

11. Employee dental expenses are considered to be a prudently incurred expense and will be treated as such, including for surveillance reporting, as of the Implementation Date.

12. Additional amortization expense which is being recorded as an offset to the ITC interest synchronization adjustment shall no longer be recorded after the Implementation Date of this Stipulation and Settlement.

13. FPL will withdraw its request for an increase in the annual accrual to the Company's Storm Damage Reserve. In the event that there are insufficient funds in the Storm Damage Reserve and through insurance, FPL may petition the FPSC for recovery of prudently incurred costs not recovered from those sources. The fact that insufficient funds have been accumulated in the Storm Damage Reserve to cover costs associated with a storm event or events shall not be evidence of imprudence or the basis of a disallowance. Parties to this Stipulation and Settlement are not precluded from participating in such a proceeding.

14. On April 15, 2002, FPL shall effect a mid-course correction of its Fuel Cost Recovery Clause to reduce the fuel clause factor based on projected over-recoveries, in the amount of \$200 million, for the remainder of calendar year 2002. The fuel adjustment clause shall continue to operate as normal, including but not limited to,

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any additional mid-course adjustments that may become necessary and the calculation of true-ups to actual fuel clause expenses. FPL will not use the various cost recovery clauses to recover new capital items which traditionally and historically would be recoverable through base rates.

15. This Stipulation and Settlement is contingent on approval in its entirety by the FPSC. This Stipulation and Settlement will resolve all matters in this Docket pursuant to and in accordance with Section 120.57(4), Florida Statutes (2001). This Docket will be closed effective on the date the FPSC Order approving this Stipulation and Settlement is final.

16. This Stipulation and Settlement dated as of March 12, 2002 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
700 Universe Boulevard
Juno Beach, FL 33408

By: _____
W. G. Walker, III

Florida Industrial Power Users Group

McWhirter, Reeves, McGlothlin,
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Office of Public Counsel
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Tallahassee, FL 32399

By: _____
Jack Shreve

Florida Retail Federation

Greenberg, Traurig, Hoffman, Lipoff,
Rosen & Quentel, P.A.

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By: _____
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By: _____
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Michael Twomey, Esq.
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By: _____
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Gray, Harris & Robinson, P.A.
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By: _____
Thomas A. Cloud

Dynegy Midstream Services LP

Gray, Harris & Robinson, P.A.
301 East Pine Street, Suite 1400
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By: _____
Thomas A. Cloud

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ATTACHMENT 2
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RESIDENTIAL FUEL COST RECOVERY FACTORS FOR THE PERIOD:

NOTE: This schedule reflects a midcourse correction to Florida Power & Light Company's fuel factors effective April 15, 2002.

April 15, 2002 - December 2002

		Florida Power & Light Co.	Florida Power Corporation	Tampa Electric Company	Gulf Power Company	Florida Public Utilities Co. (2)	
						Marianna	Fernandina Beach
Present (cents per kwh):	January 2002 - April 14, 2002	2.866	2.692	3.313	2.239	4.060	3.983
Proposed (cents per kwh):	April 15, 2002 - December 2002	2.635	2.692	3.313	2.239	4.060	3.983
	Increase/Decrease:	-0.231		0.000	0.000	-0.000	0.000

TOTAL MONTHLY BILL - RESIDENTIAL SERVICE - 1,000 KILOWATT HOURS

PRESENT	Florida Power & Light Co.	Florida Power Corporation	Tampa Electric Company	Gulf Power Company	Florida Public Utilities Co. (2)	
January 2002 - April 14, 2002					Marianna	Fernandina Beach
Base Rate Charges	43.26	49.05	51.92	42.20	20.43	19.20
Fuel and Purchased Power Cost Recovery Clause	28.66	26.92	33.13	22.39	40.60	39.83
Energy Conservation Cost Recovery Clause	1.87	2.07	1.16	0.64	0.83	0.58
Environmental Cost Recovery Clause	0.00	N/A	1.59	1.02	N/A	N/A
Capacity Cost Recovery Clause	7.01	11.32	3.79	0.27	N/A	N/A
Gross Receipts Tax (1)	0.83	2.29	2.35	0.68	1.59	0.61
Total	\$81.63	\$91.65	\$93.94	\$67.20	\$63.45	\$60.22

PROPOSED	Florida Power & Light Co. (3)	Florida Power Corporation	Tampa Electric Company	Gulf Power Company	Florida Public Utilities Co. (2)	
April 15, 2002 - December 2002					Marianna	Fernandina Beach
Base Rate Charges	40.22	49.05	51.92	42.20	20.43	19.20
Fuel and Purchased Power Cost Recovery Clause	26.35	26.92	33.13	22.39	40.60	39.83
Energy Conservation Cost Recovery Clause	1.87	2.07	1.16	0.64	0.83	0.58
Environmental Cost Recovery Clause	0.00	N/A	1.59	1.02	N/A	N/A
Capacity Cost Recovery Clause	7.01	11.32	3.79	0.27	N/A	N/A
Gross Receipts Tax (1)	0.77	2.29	2.35	0.68	1.59	0.61
Total	\$76.22	\$91.65	\$93.94	\$67.20	\$63.45	\$60.22

PROPOSED INCREASE / (DECREASE)	Florida Power & Light Co.	Florida Power Corporation	Tampa Electric Company	Gulf Power Company	Florida Public Utilities Co. (2)	
					Marianna	Fernandina Beach
Base Rate Charges	-3.04	0.00	0.00	0.00	0.00	0.00
Fuel and Purchased Power Cost Recovery Clause	-2.31	0.00	0.00	0.00	0.00	0.00
Energy Conservation Cost Recovery Clause	0.00	0.00	0.00	0.00	0.00	0.00
Environmental Cost Recovery Clause	0.00	0.00	0.00	0.00	0.00	0.00
Capacity Cost Recovery Clause	0.00	0.00	0.00	0.00	0.00	0.00
Gross Receipts Tax (1)	-0.06	0.00	0.00	0.00	0.00	0.00
Total	(\$5.41)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

(1) Additional gross receipts tax is 1% for Gulf, FPL and FPUC-Fernandina Beach. FPC, TECO and FPUC-Marianna have removed all GRT from their rates, and thus entire 2.5% is shown separately. (2) Fuel costs include purchased power demand costs of 1.726 for Marianna and 1.888 cents/KWH for Fernandina allocated to the residential class.

(3) Proposed FPL base rate charges reflect reduction resulting from proposed stipulation and settlement in Docket No. 001148-EI.

ATTACHMENT 2

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FUEL ADJUSTMENT FACTORS IN CENTS PER KWH BASED ON LINE LOSSES BY RATE GROUP

April 15, 2002 - December 2002

			BEFORE LINE LOSSES			LINE	FINAL FACTORS ADJUSTED FOR LINE LOSSES			
COMPANY	GROUP	RATE SCHEDULES	Standard	TIME OF USE		LOSS MULTIPLIER	Standard	TIME OF USE		
				On/Peak	Off/Peak			On/Peak	Off/Peak	
FP&L	A	RS-1,RST-1,GST-1,GS-1,SL-2	2.630	2.915	2.502	1.00210	2.635	2.921	2.507	
	A-1	SL-1,OL-1, PL-1	2.568	NA	NA	1.00210	2.573	NA	NA	
	B	GSD-1,GSDT-1, CILC-1(G)	2.630	2.915	2.502	1.00202	2.635	2.921	2.507	
	C	GSLD-1,GSLDT-1, CS-1, CST-1	2.630	2.915	2.502	1.00078	2.632	2.917	2.504	
	D	GSLD-2,GSLDT-2, CS-2, CST-2, OS-2, MET	2.630	2.915	2.502	0.99429	2.614	2.898	2.487	
	E	GSLD-3,GSLDT-3,CS-3,CST-3,CILC-1(T),ISST-1(T)	2.630	2.915	2.502	0.95233	2.504	2.776	2.382	
	F	CILC-1(D),ISST-1(D)	NA	2.915	2.502	0.99331	NA	2.895	2.485	
FPC	1	Distribution Secondary Delivery	2.692	3.273	2.442	1.00000	2.692	3.273	2.442	
	2	Distribution Primary Delivery	2.692	3.273	2.442	0.99000	2.665	3.241	2.417	
	3	Transmission Delivery	2.692	3.273	2.442	0.98000	2.638	3.208	2.393	
	4	Lighting Service	2.597	NA	NA	1.00000	2.597	NA	NA	
TECO	A	RS, RST, GS, GST, TS	3.301	4.518	2.783	1.00350	3.313	4.535	2.793	
	A-1	SL-2,OL-1,3	3.301	NA	NA	NA	3.054	NA	NA	
	B	GSD, GSDT, GSLD, GSLDT, SBF, SBFT	3.301	4.518	2.783	1.00090	3.304	4.523	2.786	
	C	IS-1 & 3, IST1 & 3, SBI-1 & 3, SBIT1 & 3	3.301	4.518	2.783	0.97920	3.232	4.425	2.725	
GULF	A	RS,GS,GSD,OS-III,OS-IV, SBS (100 to 499 kW)	2.212	2.680	2.013	1.01228	2.239	2.713	2.038	
	B	LP, SBS (Contract Demand of 500 to 7499 kW)	2.212	2.680	2.013	0.98106	2.170	2.629	1.975	
	C	PX, PXT, RTP,SBS (Contract Demand above 7499 kW)	2.212	2.680	2.013	0.96230	2.129	2.579	1.938	
	D	OS-1,OS-2	2.182	NA	NA	1.01228	2.208	NA	NA	
FPUC	<u>Fernandina</u>	A	RS	3.983	NA	NA	1.00000	3.983	NA	NA
		B	GS	3.732	NA	NA	1.00000	3.732	NA	NA
		C	GSD	3.581	NA	NA	1.00000	3.581	NA	NA
		D	OL, OL-2, SL-2, SL-3, CSL	2.591	NA	NA	1.00000	2.591	NA	NA
	<u>Marianna:</u>	E	GSLD						Actual Fuel Cost plus \$6.28 per CP kW	
		A	RS	4.059	NA	NA	1.00000	4.060	NA	NA
		B	GS	4.042	NA	NA	1.00000	4.042	NA	NA
		C	GSD	3.654	NA	NA	1.00000	3.654	NA	NA
		D	GLSD	3.492	NA	NA	1.00000	3.492	NA	NA
		E	OL, OL-2	2.529	NA	NA	1.00000	2.529	NA	NA
		F	SL1-2, SL-3	2.526	NA	NA	1.00000	2.526	NA	NA

APPENDIX C

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power
& Light Company's proposed
merger with Entergy
Corporation, the formation of
a Florida transmission company
("Florida transco"), and their
effect on FPL's retail rates.

DOCKET NO. 001148-EI
ORDER NO. PSC-01-1346-PCO-EI
ISSUED: June 19, 2001

The following Commissioners participated in the disposition
of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER REQUIRING THE FILING OF MINIMUM FILING REQUIREMENTS

BY THE COMMISSION:

BACKGROUND

This docket was opened on August 15, 2000, to review Florida Power & Light Company's (FPL or the company) proposed merger with Entergy Corporation (Entergy), the formation of a regional transmission organization (RTO), and their effects on FPL's rates and earnings. On April 2, 2001, FPL Group, Inc. announced that the agreement to merge with Entergy had been terminated. The proposed transco, GridFlorida, has been approved by the Federal Energy Regulatory Commission (FERC) and is scheduled to become operational by the end of the year.

At the current time, FPL is operating under a three year revenue sharing plan that was part of a stipulation with the Office of Public Counsel, the Florida Industrial Power Users Group, and

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the Coalition for Equitable Rates. The stipulation was approved in Order No. PSC-99-0519-AS-EI, issued March 17, 1999, in Docket No. 990067-EI. In addition to setting a revenue cap, the stipulation provided for a \$350 million annual rate reduction, a reduction in the authorized midpoint for return on equity (ROE) from 12% to 11%, the discretionary amortization of up to \$100 million annually to reduce nuclear and/or fossil production plant and various other items. As a result of the revenue cap, FPL refunded \$22.8 million during 2000 and expects to refund in excess of \$87.8 million, plus interest, during June 2001. The revenue sharing plan ends on April 14, 2002.

Several events have occurred recently that impact the electric industry in Florida. In July, 2000, Governor Bush created the Energy 2020 Study Commission (Energy Commission), which has been charged with proposing an energy plan and strategy for Florida over the next 20 years. The Energy Commission filed an Interim Report to the Legislature and the Governor in December, 2000, which included proposed legislation designed to move Florida to a deregulated wholesale energy market. That proposed legislation called for a base rate cap on retail rates during a transition period. During the recent legislative session, there were concerns expressed about the earnings level of the investor-owned companies, the value of the generation and transmission assets, and whether current base rates accurately reflect cost.

In addition, the utility is involved in the establishment of GridFlorida, a regional transmission organization (RTO) formed in response to an order issued by the Federal Energy Regulatory Commission (FERC). This RTO will have a significant impact on the investment and expenses of the utility in the future. Retail rates, which currently include a cost component to recover transmission facility costs, must be reconciled with the removal of the transmission costs and the imposition of new wholesale transmission rates charged by GridFlorida.

In light of all of these events, we believe it is necessary to initiate a base rate proceeding to address the level of FPL's earnings and to assure appropriate retail rates are implemented on a going forward basis so that appropriate benefits of the formation

of the RTO and any future restructuring of the electric market are captured for the retail ratepayer. The following discussion details our specific concerns with regard to the level of earnings of FPL.

DISCUSSION

In the Stipulation, it was explicitly recognized that, during the term of the Stipulation, FPL's "...achieved return on equity may, from time to time, be outside the authorized range...." Every month since the inception of the revenue sharing plan in April 1999, however, FPL's achieved "FPSC Adjusted" ROE has exceeded the maximum of its authorized ROE range. Over this 23 month period, FPL's achieved ROE has exceeded the 12% ROE ceiling by a range of 4 to 157 basis points through February 2001. On average during this period, FPL's reported ROE has been 49 basis points above the top of the authorized ROE range. This is a conservative figure because it does not reflect the possibility of certain adjustments related to items such as the Florida Municipal Power Agency (FMPA) settlement and executive compensation.

FPL has maintained this high level of earnings despite the imposition of the revenue cap and its related refunds, the \$350 million annual base rate reduction, the \$100 million discretionary production plant amortization write-off, the inclusion of a \$69 million settlement with FMPA in November 1999 and the December 2000 recording of one-time costs, including substantial executive compensation expenses, of \$62 million related to the failed merger with Entergy. We are concerned that, once the revenue sharing plan ends on April 14, 2002, FPL's earnings will continue to exceed its authorized maximum ROE ceiling of 12% with no protection for the ratepayers from these high earnings.

As part of FPL's current revenue sharing plan, the annual nuclear decommissioning and fossil dismantlement accruals have been capped at the 1995 prescribed levels, and FPL's depreciation rates were capped at their prescribed 1999 levels. FPL filed an updated nuclear decommissioning study at the end of 2000 which is under review. The currently approved nuclear decommissioning annual

accruals are \$84,024,335 on a retail basis. The annual accruals resulting from FPL's updated decommissioning studies are \$81,549,724 on a retail basis. This represents a \$2,474,611 decrease in the annual accrual amount. FPL is proposing to maintain the currently prescribed annual accrual level rather than decreasing the level to the amount supported by its decommissioning studies. Under the Stipulation, the decommissioning accrual cannot be increased. If the accrual is decreased, it would increase FPL's earnings for 2001 and the remaining period of the stipulation.

Inextricably related to the assessment of earnings is the amount of common equity capital on which the ROE is measured. FPL's equity ratio, while addressed in the Stipulation, remains an ongoing concern. In Section 4 of the Stipulation, FPL agreed to cap its equity ratio at 55.83% on an adjusted basis for surveillance purposes. Although the amount is small, FPL's adjusted equity ratio has consistently exceeded this cap since March 2000. FPL's actual equity ratio, the level upon which earnings are measured, of approximately 65% continues to be well above the average equity ratio for AA-rated electric utilities. A rate proceeding will afford an opportunity to determine an appropriate equity ratio, for ratemaking purposes, after the expiration of the revenue sharing plan.

In addition to the reasons for an earnings investigation outlined above, the information contained in the rate case minimum filing requirements (MFRs) is necessary to ensure proper rate-making and cost allocations among rate classes to reflect changes that have occurred since the company's last rate case. FPL's most recent fully allocated cost of service study was filed in 1981 for a projected 1983 test year. Since that time, significant changes have taken place in the company's operations, and cost shifting among rate classes has occurred. Considering the possibility of wholesale and/or retail electric market restructuring in Florida, the availability of current cost and allocation information will be beneficial to decision makers.

As mentioned previously, the utility is involved in the establishment of GridFlorida RTO along with other electric

utilities in peninsular Florida. The planned implementation of GridFlorida is December, 2001 and the rates of the RTO are due to be filed with FERC in October, 2001. On May 11, 2001, prior to this decision, FPL, Florida Power Corporation, and Tampa Electric Company filed a Joint Motion to Establish a Generic Docket to consider the issues related to the formation of GridFlorida on an expedited basis. This Joint Motion was addressed at the May 29, 2001, agenda conference, and a separate order reflecting that decision will be issued in Dockets Nos. 001148-EI, 000824-EI and 010577-EI.

DECISION

A rate proceeding with MFRs, including a fully allocated cost study, will provide assurances that FPL's rates, on a going-forward basis, are fair, just, and reasonable. For all of the reasons stated above, we find that FPL shall be required to file MFRs by August 15, 2001 (approximately 90 days from the date of our vote on this matter). This filing will begin an eight month time period for establishing new base rates to be effective by April 15, 2002, the expiration date of the existing revenue sharing plan. We further find that a projected calendar year 2002 test year is a reasonable basis for determining future rates.

In requiring FPL to file MFRs, we are mindful that it has been in excess of 17 years since full MFRs were filed, and that the effort to make such a filing is significant. To that end, we direct our staff to meet with the utility, the other parties, and other interested persons as soon as possible. The participants are directed to identify specific issues, discuss the possibility of eliminating certain MFRs that are not necessary for the efficient processing of this case, and to discuss the logistical challenges to the utility in meeting the August 15, 2001, filing date. We recognize that the discussions undertaken pursuant to the direction of this order could result in the need for further action by the Prehearing Officer and/or the Commission. Our intent is to be flexible, while still requiring the filing of sufficient information on a timely basis.

Our over-arching concern is that the public interest be protected. It is our responsibility to ensure that the company's retail rates are at an appropriate level. Moreover, it is our belief that information in the MFRs will assist this Commission in addressing questions from the Energy 2020 Study Commission and the Florida Legislature regarding the earnings level of FPL, appropriate base rates, and the level of potential stranded cost/investment associated with various plans for restructuring of the electric industry.

We want to be clear that this decision to initiate a rate proceeding does not foreclose the ability of the company and parties to reach a resolution of some or all of the issues involved in an earnings review. In fact, it is our belief that the information contained in the MFRs can empower parties and the Commission to reach a settlement that everyone can agree is in the public interest. However, we need to be ready to move forward to discharge our obligations in the event there is no informal resolution of the issues. The information contained in the MFRs will allow us to do that.

Although we are not a party bound by its terms, we did approve the Stipulation in Order No. PSC-99-0519-AS-EI. One provision of the stipulation provides that the revenue sharing plan is to be the parties' "exclusive mechanism" to address any excessive earnings that might occur during the term of the stipulation. This provision provides some measure of protection for the ratepayers. For this reason, we find that no money shall be placed subject to refund at this time.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company shall file Minimum Filing Requirements by August 15, 2001, based on a projected calendar year 2002 test year. It is further

ORDERED that no money shall be placed subject to refund at this time. It is further

ORDER NO. PSC-01-1346-PCO-EI
DOCKET NO. 001148-EI
PAGE 7

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 19th
day of June, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

RVE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

ORDER NO. PSC-01-1346-PCO-EI
DOCKET NO. 001148-EI
PAGE 8

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail
rates of Florida Power & Light
Company

DOCKET NO. 001148-EI
ORDER NO. PSC-01-2111-PCO-EI
ISSUED: October 24, 2001

ORDER ESTABLISHING PROCEDURE

By Order No. PSC-01-1346-PCO-EI, issued June 19, 2001, in this docket, Florida Power & Light Company (FPL) was ordered to file Minimum Filing Requirements (MFRs) based on a projected calendar year 2002 test year. By Order No. PSC-01-1535-PCO-EI, issued July 24, 2001, the Commission established the specific MFR schedules to be filed by FPL and the filing dates for those schedules. A hearing has been scheduled for April 10-12, and 15-16, 2002.

This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission staff (staff) up to and during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and all administrative rules applicable to this Commission.

Discovery

When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving discovery disputes.

The hearing in this docket is set for April 10-12, and 15-16, 2002. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by April 1, 2002. All interrogatories, requests for admissions, and requests for production of documents shall be numbered sequentially in order to facilitate their identification. The discovery requests will be

DOCUMENT NUMBER-DATE

13469 OCT-24-01

R. 9394

FPSC-COMMISSION CLERK

numbered sequentially within a set and any subsequent discovery requests will continue the sequential numbering system. Pursuant to Rule 28-106.206, Florida Administrative Code, unless subsequently modified by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 500; requests for production of documents, including all subparts, shall be limited to 500; and requests for admissions, including subparts, shall be limited to 100.

Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time period set forth in Section 366.093, Florida Statutes.

Diskette Filings

See Rule 25-22.028(1), Florida Administrative Code, for the requirements of filing on diskette for certain utilities.

Notice and Public Information

Within 15 days of filing the complete MFR schedules required by Order No. PSC-01-1535-PCO-EI, FPL shall place a copy of the MFRs at its official headquarters. The copies of the MFRs shall be available for public inspection during the utility's regular business hours.

FPL shall advise all customers, via a notation on its bills, that service hearings have been scheduled and that details will be provided via newspaper advertisements. At least 7 days and not more than 20 days prior to each service hearing, FPL shall have published in a newspaper of general circulation in the area in which the service hearing is to be held a display advertisement

stating the date, time, location, and purpose of the hearing. The advertisement shall be approved by the Commission staff prior to publication. This advertisement shall also include a statement that any customer comments regarding FPL's service or rates should be addressed to the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and that such comments should identify the docket number assigned to this proceeding.

Prefiled Testimony and Exhibits

Each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 1/2 inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of the Commission Clerk and Administrative Services, by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

If a demonstrative exhibit or other demonstrative tools are to be used at hearing, they must be identified by the time of the Prehearing Conference.

Each witness shall prepare an errata sheet incorporating all changes and or corrections to his/her prefiled testimony, if necessary. Each errata sheet will be marked as an exhibit, to be offered at the same time as the prefiled testimony and exhibits.

Prehearing Statement

All parties in this docket shall file a prehearing statement. Staff will also file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of the Commission Clerk and Administrative Services by the close of business, which is 5:00 p.m., on the date due. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;
- (e) a statement of each question of law the party considers at issue and the party's position on each such issue;
- (f) a statement of each policy question the party considers at issue, the party's position on each

such issue, and which of the party's witnesses will address the issue;

- (g) a statement of issues that have been stipulated to by the parties;
- (h) a statement of all pending motions or other matters the party seeks action upon;
- (i) a statement identifying the parties' pending requests for confidentiality;
- (j) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore; and
- (k) Any objections to a witness's qualifications as an expert must be identified in a party's Prehearing Statement. Failure to identify such objection may result in restriction of a party's ability to conduct voir dire.

Prehearing Conference

Pursuant to Rule 28-106.209, Florida Administrative Code, a prehearing conference will be held March 14, 2001, at the Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the

issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Document Identification

To facilitate the management of documents in this docket, exhibits will be numbered at the Prehearing Conference. Each exhibit submitted shall have the following in the upper right-hand corner: the docket number, the witness's name, the word "Exhibit" followed by a blank line for the exhibit number and the title of the exhibit.

An example of the typical exhibit identification format is as follows:

Docket No. 12345-TL
J. Doe Exhibit No. _____
Cost Studies for Minutes of Use by Time of Day

Controlling Dates

On August 15, 2001, FPL submitted a letter to staff concerning FPL's proposed schedule for the retail rate review portion of this docket. Staff met with the parties to discuss FPL's proposal on August 29, 2001. FPL identifies three objectives which FPL believes are advanced by its proposed schedule:

- 1) It allows all parties an opportunity to explore possible settlement of parts or all of the matters that could be considered in this proceeding.
- 2) It provides for the staff to issue a recommendation to the Commission on how best to proceed based on its review of the extensive and comprehensive 2002 forecast data contained in the MFRs filed by FPL.
- 3) It permits the identification of factual issues that may be in dispute so that they can be meaningfully addressed and facilitates the possible simplification and resolution of some of those issues short of a full hearing.

Having considered FPL's request, and the comments of the parties, the following schedule is established:

Discovery	Now through April 1, 2002
MFR Filing Complete	10/15/01
Service Hearings	11/29/01, 12/11-13/01
Preliminary Lists of Issues	12/21/01
Issue ID Meeting	01/09/02
Utility Direct Testimony	01/28/02
Intervenor Testimony	02/11/02
Staff Testimony	02/25/02
Prehearing Statements	02/28/02
Rebuttal Testimony	03/11/02
Prehearing Conference	03/14/02
Discovery Complete	04/01/02
Hearing	04/10/01 - 04/12/01 & 04/15/01 - 04/16/01
Briefs	04/28/02

This schedule is compatible with all the objectives suggested in FPL's August 15, 2001, letter. However, FPL's suggestion of requiring a staff recommendation on how best to proceed based on its review of the extensive and comprehensive 2002 forecast data is unnecessary, not practical, and potentially prejudicial to the rights of one or more parties. The Commission, in its deliberations at, and the order issued from, the decision at the May 15, 2001, agenda conference, provided explicit direction as to how to proceed. The Commission ordered the utility to file MFRs to determine what FPL's retail rates should be on a going forward basis. There are two means of addressing that issue with finality in Florida Administrative Law. First, via a settlement, agreed to by all parties to the proceeding and subsequently approved by the Commission. Second, via a hearing conducted pursuant to Sections 120.569 and 120.57, Florida Statutes. The Commission's intent in requiring the filing of MFRs was to facilitate both possible outcomes. This proceeding was initiated by the Commission on its own motion. As such, if, at any point, staff believes the proceeding should be concluded, it can prepare a recommendation for Commission consideration. There simply is no reason to require a recommendation to reconsider the Commission's direction when, if appropriate, the option already exists.

The Commission expected that information in the MFRs would be the starting point for reaching a determination on the reasonableness of FPL's rates. The MFRs in and of themselves, will not provide all the information necessary to ascertain the reasonableness of FPL's retail rates on a going forward basis. An audit, and an adequate period for discovery are necessary to evaluate and, if necessary, challenge the assertions contained in the MFRs. The discovery and audit processes should be permitted to take place without undue time restrictions to allow staff and the parties a fair opportunity to review the MFRs.

FPL has voiced concerns about its ability to respond to issues that will not, and indeed, cannot be identified before the parties and staff have fully reviewed the MFRs. To address that concern, this Order establishes a testimony filing schedule subsequent to the identification of specific issues. The proposed schedule contemplates an opportunity for utility, intervenor, staff and rebuttal testimony. This schedule will allow:

- 1) An opportunity for all parties to fully evaluate the information in the MFRs;

- 2) The identification of specific issues based on that evaluation;
- 3) An opportunity for all parties to file testimony which addresses the specifically identified issues;
- 4) Approximately 90 days from the identification of issues to the hearing to explore settlement of some or all of the issues short of a full hearing; and
- 5) The staff to file a recommendation concerning an alternate procedure for processing this case if it appears to staff to be warranted.

I believe this process accommodates the matters addressed in FPL's letter.

Use of Confidential Information At Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven-day requirement described above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information.

ORDER NO. PSC-01-2111-PCO-EI
DOCKET NO. 001148-EI
PAGE 10

Therefore, confidential information should be presented by written exhibit when reasonably possible to do so. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

Post-Hearing Procedure

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

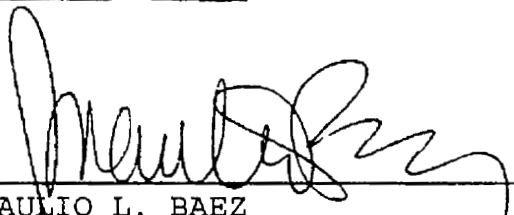
Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 75 pages, and shall be filed at the same time.

Based upon the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

ORDER NO. PSC-01-2111-PCO-EI
DOCKET NO. 001148-EI
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By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 24th day of October, 2001.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the

ORDER NO. PSC-01-2111-PCO-EI
DOCKET NO. 001148-EI
PAGE 12

Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ANDREWS & KURTH L.L.P.

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January 30, 2002

Via Federal Express

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RECEIVED 11:30
02 JAN 30 AM 10:26
COMMISSION
CLERK-

Re: Review of the retail rates of Florida Power & Light Company,
Docket No. 001148-EI

Dear Ms. Bayo:

Enclosed on behalf of South Florida Hospital and Healthcare Association are the original and eight copies of the Motion To Compel Discovery Requests in the above referenced docket.

Please acknowledge receipt and filing of the above by stamping the duplicate copy and returning same in the enclosed self-addressed stamped envelope to the undersigned.

Thank you for your assistance in connection with this matter.

Very truly yours,

Mark F. Sundback

Mark F. Sundback
An Attorney For the Hospitals

DISTRIBUTION CENTER
02 JAN 30 AM 9:27

Enclosures

cc: Counsel for Parties of Record

RECEIVED & FILED
RKM
FPSC-BUREAU OF RECORDS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:)
Review of the retail rates of)
Florida Power & Light)
Company)

Docket No. 001148-EI
Date Filed: January 30, 2002

**MOTION OF SOUTH FLORIDA HOSPITAL
AND HEALTHCARE ASSOCIATION
TO COMPEL DISCOVERY RESPONSES**

To: Honorable Commissioner Braulio L. Baez
Prehearing Officer

Pursuant to Rule 28-106.303 of the Florida Administrative Code ("FAC"), the South Florida Hospital & Healthcare Association ("SFHHA") hereby moves for issuance of an order compelling full responses to two interrogatories to which Florida Power & Light Company ("FPL") has declined to provide complete answers.

I.

SFHHA propounded its third round of discovery requests in the captioned proceeding on December 21, 2001, including SFHHA interrogatories Nos. 32 and 33. Interrogatory Nos. 32 and 33 read as follows:

Interrogatory No. 32

Please identify the entities receiving gains on the sales of interests in FiberNet, Adelphia Communications Corp. and the one-third ownership interest in the cable limited partnership (referenced in Document Production Request No. 24) all as described in the FPL Group 2000 Annual Report, and the amount of such gain for each entity.

Interrogatory No. 33

Who were the other partners in the cable limited partnership (referenced in Document Production Request No. 24), and why was an FPL affiliate a partner in the enterprise? Identify the assets contributed, or any other consideration furnished, by FPL or an FPL affiliate as part of the participation in or formation of the partnership or the acquisition of any ownership share in the partnership.

FPL has objected to Interrogatory Nos. 32 and 33. FPL has limited its responses strictly to FPL, without reference to any FPL affiliates. FPL maintains that because the interrogatories relate in part to "transactions between FPL's unregulated affiliates, or between an unregulated affiliate and an unaffiliated entity," there is no reason why the requested information should be produced. Appendix A contains FPL's statements regarding Interrogatory Nos. 32 and 33. As a consequence, FPL avoided responding to the balance of the interrogatories.

II.

FPL's objections are without merit. As FPL well knows, a rate-regulated entity has many opportunities to shift value away from ratepayers to unregulated entities where the value may be realized exclusively for the benefit of investors. SFHHA Interrogatories Nos. 32 and 33 involve precisely that issue, which may explain why FPL is so anxious not to respond.

FPL Group owned an interest in an entity called Adelphia Communications Corp. as well as in a cable limited partnership. According to the FPL Group Annual Report for 2000, the FPL Group sold its common stock in Adelphia Communications for a gain of approximately \$150 million. Additionally, FPL Group enjoyed "a \$108 million . . . gain . . . on the redemption of its one-third interest in a cable limited partnership" A copy of the relevant portion of the Annual Report is attached hereto as Appendix B.

Adelphia Communications and, potentially, the cable TV partnership, engaged in business transactions with *inter alia*, FPL. At present, there is no assurance that the unnamed cable TV partnership, or Adelphia, did not receive value, for instance by a transfer of assets owned by, or rights of access to property of, FPL, in manners which transferred substantial value from ratepayers to holders of equity interests in the

anonymous cable TV partnership or Adelphia. Certainly the fact that the FPL Group originally was invited or allowed into the cable TV partnership indicates the other partners envisioned that the FPL corporate family had something of value to contribute to the partnership. Indeed, part of Interrogatory No. 33 seeks to understand exactly what was contributed by the FPL corporate family as part of being admitted as a partner in the cable partnership.

Of course, as the owner of an existing network consisting of thousands of miles of right-of-way in Florida's most densely populated areas, FPL has characteristics of very high value to cable TV and telecommunications enterprises. FPL would hardly have been the first utility to have attempted to capitalize on this value.¹ But the right-of-way and other assets have been assembled as part of FPL's electric operations. The sale of interests in Adelphia and the cable TV partnership of course may be the result simply of investing serendipity. Alternatively, if valuable rights or assets at one time held by FPL were conveyed to Adelphia or the cable TV partnership at below market value, that also would tend to increase the value of owning a share of such enterprises.

In order to determine whether these gains came at the expense of ratepayers, it is important to know why an FPL affiliate became involved in the respective enterprises (*e.g.*, Interrogatory No. 33), and what consideration was furnished during formation of and participation in the partnership (Interrogatory No. 33). One way to transfer value from regulated FPL operations to FPL Group shareholders would be a two step process: first, convey rights or assets of FPL to an entity such as Adelphia or the cable TV partnership, its owners or an intermediary (thereby obscuring the transactional trail); and second, have the other owners of Adelphia or the cable TV partnership pay the FPL

¹ For instance, AEP and a number of other utilities have announced plans to form a new company which would hold rights to access the utilities' rights of way for telecommunications purposes.

Group compensation, ostensibly for transfer of FPL Group's ownership interest in such entities, which would recognize the market value of the rights or assets conveyed by FPL. In that way, the gain on the sale of the equity interest accrues to FPL shareholders even if the asset originally belonged to FPL. There is nothing particularly novel about this structure; regulated entities attempt from time to time to capture value in this way, although how they attempt to distract attention from such transactions or shield them from full disclosure (*e.g.*, by contending that reports such as the Diversification Report would be sufficient disclosure although transactions through intermediaries may not be adequately reflected in such reports) varies from state to state and utility to utility. But ratepayers and this Commission are entitled to know if such activities have occurred in the FPL corporate family, especially given the dearth of full discovery in rate cases for FPL during the last 18 years.

Therefore, FPL's attempt to avoid furnishing the responsive data is without merit. FPL should not be permitted to deprive ratepayers of value on the basis that its affiliates ultimately profited from a transaction - - indeed, that is exactly the point why such a transaction should be scrutinized, not ignored or shielded from review.

III.

Pursuant to FAC Rule 28-106.303(c), SFHHA has conferred with FPL, the subject of this motion to compel, and SFHHA understands that FPL objects to the motion.

IV.

WHEREFORE, for the foregoing reasons, SFHHA respectfully requests that FPL be compelled to furnish full responses to SFHHA Interrogatories Nos. 32 and 33.

Respectfully submitted, ---



Mark F. Sundback
Kenneth L. Wiseman
Andrews & Kurth L.L.P.
1701 Pennsylvania Avenue, N.W., Suite 300
Washington, D.C. 20006
Ph. (202) 662-3030: Fax (202) 662-2739

ATTORNEYS FOR SFHHA

January 30, 2002

APPENDIX A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail rates of _____)
Florida Power & Light Company. _____)

Docket No. 001148-EI
Dated: January 23, 2002

**FLORIDA POWER & LIGHT COMPANY'S RESPONSE TO
SOUTH FLORIDA HOSPITAL ASSOCIATION'S THIRD REQUEST
FOR PRODUCTION (NOS. 15-25) AND INTERROGATORIES (NOS. 20-33)**

Florida Power & Light Company ("FPL"), pursuant to Rule 28-106.206, Florida Administrative Code and Rules 1.340 and 1.350, Florida Rules of Civil Procedure, hereby responds to South Florida Hospital Association's Third Request for Production (Nos. 15-25) and Interrogatories (20-33) as follows:

Introduction

FPL incorporates its prior objections and clarifications, served on January 3, 2002. Its responses included herein are without waiver of those prior objections and clarifications.

All documents marked confidential (identified in the Confidential Documents Log attached hereto) shall be subject to a confidentiality order or agreement to be agreed upon between the parties, and shall be produced subject to such order or agreement.

Response to Request for Production

15. The documents provided in response to this request will be made available for inspection at FPL's General Offices at 9250 West Flagler Street, Miami, Florida 33174 during normal business hours.

16. FPL has no documents responsive to this request.

Q.

Please identify the entities receiving gains on the sales of interests in FiberNet, Adelphia Communications Corp. and the one-third ownership interest in the cable limited partnership (referenced in Document Production Request No. 24) all as described in the FPL Group 2000 Annual Report, and the amount of such gain for each entity.

A.

FPL's fiber-optic lines were sold to FPL FiberNet at net book value and no gain was recorded. The other transactions didn't involve FPL.

Q.

Who were the other partners in the cable limited partnership (referenced in Document Production Request No.24), and why was an FPL affiliate a partner in the enterprise? Identify the assets contributed, or any other consideration furnished, by FPL or an FPL affiliate as part of the participation in or formation of the partnership or the acquisition of any ownership share in the partnership.

A.

FPL did not participate in the referenced cable limited partnership. Therefore, this interrogatory is beyond the scope of proper discovery and, consistent with FPL's earlier objection, FPL is not required to respond.

APPENDIX B

FPL Group

2000 Annual Report



the natural choice

R. 11015

by a December 2000 filing that provided certain operational details of the proposed RTO.

Under the proposed form of RTO, FPL would contribute its transmission assets to an independent transmission company, GndFlorida LLC (GridFlorida) that would own and operate the system. A separate corporation would be formed to own the voting interest in and manage GridFlorida. In return for its transmission assets, FPL would receive a non-voting ownership interest in GndFlorida, which could be exchanged for non-voting stock of the managing corporation. FPL would account for its interest in GridFlorida using the equity method.

FPL Energy — FPL Energy's earnings continue to benefit from the significant expansion of its independent power generation portfolio, which has more than tripled since 1997 to over 4,100 mw at December 31, 2000. In 2000, Lamar Power Partners, a natural gas-fired plant in the Central region became operational and added approximately 1,000 mw to FPL Energy's operating portfolio. In 1999, FPL Energy acquired the Maine assets, which totaled 1,159 mw and in 1998, FPL Energy invested in two natural gas-fired plants in the Northeast, adding 295 mw. In addition, approximately 400 mw of wind projects have been added in the West and Central regions since 1997.

In 2000, FPL Energy's net income also benefited from increased revenues generated by the Maine assets as a result of warmer weather and higher prices in the Northeast during May 2000, and lower O&M expenses at Doswell. In 1999, the effect of a \$176 million (\$104 million after-tax) impairment loss (see Note 10) and higher administrative expenses to accommodate future growth more than offset the benefits of the growing generation portfolio and improved results from Doswell. FPL Energy's 1998 net income includes the effect of a \$35 million (\$21 million after-tax) charge for the termination of an interest rate swap agreement, which was partly offset by the receipt of a \$31 million (\$19 million after-tax) settlement relating to a contract dispute.

Deregulation of the electric utility market presents both opportunities and risks for FPL Energy. Opportunities exist for the selective acquisition of generation assets that are being divested under deregulation plans and for the construction and operation of efficient plants that can sell power in competitive markets. Substantially all of the energy produced in 2000 by FPL Energy's independent power projects was sold through power sales agreements with utilities that expire in 2001-28. As competitive wholesale markets become more accessible to other generators, obtaining power sales agreements will become a progressively more competitive process. FPL Energy expects that as its existing power sales agreements expire, more of the energy produced will be sold through shorter-term contracts and into competitive wholesale markets.

Competitive wholesale markets in the United States continue to evolve and vary by geographic region. Revenues from electricity sales in these markets will vary based on the prices obtainable for energy, capacity and other ancillary services. Some of the factors

affecting success in these markets include the ability to operate generating assets efficiently, the price and supply of fuel, transmission constraints, competition from new sources of generation, demand growth and exposure to legal and regulatory changes.

FPL Energy has approximately 540 net mw in California, most of which are wind, solar and geothermal qualifying facilities. The output of these projects is sold predominantly under long-term contracts with California utilities. Increases in natural gas prices and an imbalance between power supply and demand, as well as other factors, have contributed to significant increases in wholesale electricity prices in California. Utilities in California had previously agreed to fixed tariffs to their retail customers, which resulted in significant under-recoveries of wholesale electricity purchase costs. FPL Energy's projects have not received the majority of payments due from California utilities since November 2000. On April 6, 2001, Pacific Gas and Electric Company (PG&E) filed for protection under the U.S. Bankruptcy laws. Earnings from projects that sell to PG&E represent approximately 15% of FPL Energy's earnings from California projects. At December 31, 2000, FPL Energy's net investment in California projects was approximately \$250 million. It is impossible to predict what the outcome of the situation in California will be.

Corporate and Other — Beginning in 2000, the corporate and other segment includes FPL FiberNet's operating results. FPL FiberNet was formed in January 2000 to enhance the value of FPL Group's fiber-optic network assets that were originally built to support FPL operations. Accordingly, FPL's existing 1,600 miles of fiber-optic lines were transferred to FPL FiberNet in January 2000. In 1999, net income for the corporate and other segment reflects a \$149 million (\$96 million after-tax) gain on the sale of an investment in Adelphia Communications Corporation common stock, a \$108 million (\$66 million after-tax) gain recorded by FPL Group Capital Inc (FPL Group Capital) on the redemption of its one-third interest in a cable limited partnership, costs associated with closing a retail marketing business of \$11 million (\$7 million after-tax) and the favorable resolution of a prior year state tax matter of \$10 million (\$7 million after-tax). In 1998, net income for the corporate and other segment reflects a \$36 million (\$25 million after-tax) loss from the sale of Turner Foods Corporation's assets, the cost of terminating an agreement designed to fix interest rates of \$26 million (\$16 million after-tax) and adjustments relating to prior years' tax matters, including the resolution of a \$30 million audit issue with the Internal Revenue Service.

LIQUIDITY AND CAPITAL RESOURCES

FPL Group's capital requirements consist of expenditures to meet increased electricity usage and customer growth of FPL, investment opportunities at FPL Energy and expansion of FPL FiberNet. Capital expenditures of FPL for the 2001-03 period are expected to be approximately \$3.3 billion, including \$1.1 billion in 2001. As of December 31, 2000, FPL Energy has commitments totaling approximately \$380 million, primarily in connection with the

**CERTIFICATE OF SERVICE
DOCKET NO. 001148-EI**

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and U.S. Mail to the following parties, this 29th day of January, 2002.

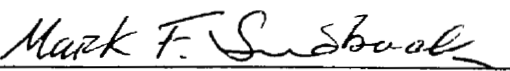
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Daniel Doorakian Moyle, Flanigan, Katz, Raymond & Sheehan, P.A. The Perkins House 118 North Gadsden Street Tallahassee, Florida 32301	


Mark F. Sundback

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail
rates of Florida Power & Light
Company.

DOCKET NO. 001148-EI
ORDER NO. PSC-02-0254-PCO-EI
ISSUED: February 27, 2002

ORDER GRANTING MOTION TO COMPEL

On December 21, 2001, the South Florida Hospital & Healthcare Association ("SFHHA") propounded its third round of discovery requests to Florida Power & Light Company ("FPL") in this docket, including Interrogatories Nos. 32 and 33, which read as follows:

Interrogatory No. 32

Please identify the entities receiving gains on the sales of interests in FiberNet, Adelphia Communications Corp. and the one-third ownership interest in the cable limited partnership (referenced in Document Production Request No. 24) all as described in the FPL Group 2000 Annual Report, and the amount of such gain for each entity.

Interrogatory No. 33

Who were the other partners in the cable limited partnership (referenced in Document Production Request No. 24), and why was an FPL affiliate a partner in the enterprise? Identify the assets contributed, or any other consideration furnished, by FPL or an FPL affiliate as part of the participation in or formation of the partnership or the acquisition of any ownership share in the partnership.

On January 3, 2002, FPL objected to providing the information sought in these interrogatories, stating:

These interrogatories relate at least in part to transactions between FPL's unregulated affiliates, or between an unregulated FPL affiliate and an unaffiliated entity. To the extent that they relate to such transactions, FPL objects to these interrogatories as beyond the proper scope of discovery (see objection to definition of "FPL" above). FPL will respond to these

DOCUMENT NUMBER 001148-EI

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interrogatories with respect to transactions involving FPL.

FPL objected to SFHHA's definition of "FPL" because it "purports to include FPL's parent and its affiliates." In its objections, FPL asserted that this Commission's jurisdiction, and hence the permissible scope of discovery in this proceeding, is limited with respect to the parent and affiliates of a utility, and that the scope of discovery is limited to documents within the possession, control, or custody of a party.

On January 30, 2002, SFHHA filed a motion to compel responses to these interrogatories. FPL filed a response in opposition to SFHHA's motion on February 6, 2002.

This Order addresses SFHHA's motion to compel and is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case. Pursuant to Rule 28-106.206, Florida Administrative Code, this dispute is governed by Rules 1.280 through 1.400, Florida Rules of Civil Procedure.

Arguments of the Parties

In its motion to compel, SFHHA states that FPL has limited its responses strictly to FPL, without reference to any FPL affiliates. Noting FPL's objections, SFHHA argues that they are without merit. In its motion, SFHHA asserts that rate-regulated utilities have the opportunity to shift value away from ratepayers to unregulated entities where the value may be realized exclusively for the benefit of investors. SFHHA states that its Interrogatories Nos. 32 and 33 are directed at that issue. SFHHA notes that FPL Group's Annual Report for 2000 shows that FPL Group owned interests in an entity called Adelphia Communications Corp. and an unnamed cable limited partnership and achieved gains of \$150 million and \$108 million, respectively, on the sale of those interests. SFHHA asserts that there is no assurance that Adelphia or the cable limited partnership did not receive value by a transfer of assets owned by, or rights of access to property of, FPL in a manner which

transferred value from ratepayers to holders of equity interests in those entities.

SFHHA asserts that FPL, as the owner of an existing network consisting of large distances of rights-of-way in densely populated portions of Florida, has characteristics of high value to cable TV and telecommunications enterprises. SFHHA further asserts that if valuable rights or assets at one time held by FPL were conveyed to Adelphia or the cable limited partnership at below market value, that would tend to increase the value of owning an interest in those entities. SFHHA states that its Interrogatories Nos. 32 and 33 are directed at determining whether FPL Group achieved the gains on sale of its interests in those entities at the expense of ratepayers.

In its response in opposition, FPL asserts that it does not object to addressing "legitimate" questions directed to whether value has been improperly shifted from FPL to an affiliate or other third party, but that Interrogatories Nos. 32 and 33 go beyond that legitimate inquiry. Citing Section 366.093(2), Florida Statutes, FPL asserts that discovery in Commission rate proceedings must relate to "information which affects a utility's rates or cost of service." FPL contends that, in this context, this means that discovery seeking to determine whether a utility has improperly transferred valuable assets to an unregulated affiliate may be appropriate. FPL asserts that Interrogatories No. 32 and 33 go past this threshold issue by seeking information about unregulated activities and dispositions of unregulated interests based on an unsupported assumption that there have been improper transfers from the utility to its affiliates.

FPL asserts that it has made available to SFHHA, in response to other SFHHA discovery requests, documents related to FPL's disposition of property to affiliates or other entities in which an affiliate has a financial interest. FPL states that SFHHA has neither inspected nor requested copies of these documents. FPL also states that nothing in its responses to Interrogatories Nos. 32 and 33 suggests that FPL made any improper transfers to any of the unregulated entities referenced in the interrogatories. FPL therefore argues that SFHHA has not established a proper predicate to explore further into the business dealings of those entities

and, thus, that SFHHA's Interrogatories Nos. 32 and 33 are beyond the scope of permissible discovery.

Decision

Rule 1.280(b)(1), Florida Rules of Civil Procedure, provides that the scope of discovery extends to "any matter, not privileged, that is relevant to the subject matter of the pending action." The rule goes on to state that "[i]t is not ground for objection that the information sought will be inadmissible at the trial if the information is reasonably calculated to lead to the discovery of admissible evidence." Having reviewed the pleadings and considered the arguments raised therein, I find that SFHHA's Interrogatories Nos. 32 and 33 seek information reasonably calculated to lead to the discovery of admissible evidence and relevant to this docket. The information sought in these interrogatories relates to the question of whether FPL shifted value away from ratepayers to investors in unregulated affiliates and, thus, may lead to the discovery of admissible evidence in this rate proceeding.

Further, the fact that these interrogatories request information concerning transactions that, in some cases, are one step removed from FPL does not make them improper. A subsidiary may be compelled to obtain documents or information from a parent company or affiliate for discovery based upon three factors previously identified by this Commission: (1) the corporate structure; (2) the non-party's connection to the transaction at issue; and, (3) the degree to which the non-party will benefit from an outcome favorable to the corporate party to the litigation. Order No. PSC-01-1725-PCO-EI, Docket No. 010827-EI, issued August 23, 2001. See Afros S.P.A. v. Krauss-Maffei Corp., 113 F.R.D. 127, 130 (D. Del. 1986). Upon consideration of the pleadings and the subject discovery requests in light of these factors, I find that FPL shall respond fully to SFHHA's Interrogatories Nos. 32 and 33, including information sought concerning transactions between FPL's unregulated affiliates and between an unregulated FPL affiliate and an unaffiliated entity. FPL shall respond to these interrogatories by the close of business on Friday, March 1, 2002.

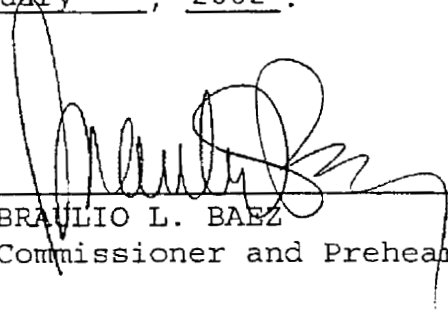
ORDER NO. PSC-02-0254-PCO-EI
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PAGE 5

Based on the foregoing, it is

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the South Florida Hospital & Healthcare Association's motion to compel is granted as set forth in the body of this Order. It is further

ORDERED that Florida Power & Light Company shall fully respond to the interrogatories discussed in this Order by the close of business on Friday, March 1, 2002.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 27th day of February, 2002.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

WCK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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PAGE 6

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

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:)
Review of the retail rates of) Docket No. 001148-EI
Florida Power & Light) Date Filed: March 4, 2002
Company)

**MOTION OF SOUTH FLORIDA HOSPITAL
AND HEALTHCARE ASSOCIATION
TO COMPEL DISCOVERY RESPONSES**

To: Honorable Commissioner Braulio L. Baez
Prehearing Officer

Pursuant to Rule 28-106.303 of the Florida Administrative Code ("FAC"), the South Florida Hospital & Healthcare Association ("SFHHA") hereby moves for issuance of an order compelling full responses by Florida Power & Light Company ("FPL") to discovery requests identified below.

I.

The very first paragraph of the October 24, 2002 "Order Establishing Procedure" addressing discovery required that in this proceeding:

When discovery requests are served and the respondent intends to object or to ask for clarification of the discovery requests, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay in resolving disputes. [Page 1].

SFHHA propounded discovery requests in the captioned proceeding on February 5, 2002, provided by overnight delivery service to FPL on February 6, 2002. A copy of the requests is contained in Attachment A. However, "Florida Power & Light Company's Objections And Request For Clarification of South Florida Hospital and Healthcare Association's Eighth Set of Interrogatories (Nos. 75-139) and Request For Documents (Nos. 65-95)" (hereinafter, "FPL's Objections and Clarification Request"), excerpts of which are appended hereto as Attachment B,

was not propounded until February 19, 2002 – more than ten days after FPL had been served with the underlying discovery requests.

As a consequence, FPL's objections are untimely and should be rejected. No debate on the merits is required because FPL was untimely in its objections. As this proceeding moves closer to hearing, the intervenors become increasingly disadvantaged by FPL's delays. Unfortunately, as will be described below, the untimeliness of FPL's pleading is not the only example of delay resulting from FPL's Objections and Clarification Requests.

II.

FPL has found another method of delaying responses. In FPL's Objections and Clarification Request, FPL speculated that the headings on various SFHHA discovery requests (appended to convey the relevance of the request to FPL's evidence) "suggests that the SFHHA intends them as discovery into the basis and support for the FPL witness' testimony. They will be answered from that perspective." FPL's Objections and Clarification Requests, p. 9. Phrased another way, FPL was declaring it would not provide materials generally in the Company's possession, but rather, intended to provide only documents upon which the witness relied (thereby screening out inconsistent evidence in FPL's possession). Of course, if FPL was attempting to understand the intended scope of SFHHA's discovery requests, which "suggest" an interpretation, the easiest way to resolve doubt would be to pick up the telephone and seek clarification from the party propounding them.

FPL elected not to do this. Instead, in an untimely pleading, FPL obviously made an interpretation, one which, from the face of the objections, FPL knew was certainly not the only, or even best, interpretation. Consider, for instance Interrogatory No. 139, which asks

Please state the reserve[] margin anticipated for the period 2002 through 2110 based upon the revised economic forecast performed post-September 11, 2001.

A moment's reflection would indicate that a response limited to analyses and data that serve as the "basis and support" of Mr. Waters' testimony (as initially offered by FPL) by definition would tend to screen out inconsistent or potentially impeaching documents.

Upon reviewing FPL's Objections and Clarification Requests, SFHHA on February 22, 2002 called FPL to say that SFHHA disagreed with FPL's interpretation. The following business day, February 25, SFHHA additionally sent FPL a letter confirming the proper interpretation of the requests. In FPL's responses to other requests, received by SFHHA on February 27, 2002, FPL stated that it would start the 20 day response period all over again, beginning February 25, 2002, for the requests in dispute.

The effect of FPL's maneuvers is obvious. The responses to the requests were due February 26, 2002 so that they could be incorporated into SFHHA's direct testimony. Instead, by attempting to restart the response period from scratch 20 days after the underlying requests were served, FPL will make responses available so late that they could not be used for purposes of preparing either SFHHA's testimony or the prehearing statements.

FPL's Alice In Wonderland discovery drill does not bring credit to the discovery process.

At a minimum, FPL could have:

- sought clarification by simple picking up the phone;
- sought clarification within a time period consistent with procedures established herein;
- provided whatever limited responses the witness identified in the "Witness Interrogatories" had assembled by February 26, 2002, rather than use FPL's recalcitrance to try to reset the discovery response clock back to zero so as to further delay responses.

Enough is enough. FPL's contempt for observing the scheduled discovery process is now manifest, between the conduct outlined in this motion and that described in SFHHA's motion to compel filed March 1, 2002 in this docket. Combined with FPL's choice not to observe the decision of the Presiding Judge regarding SFHHA's Interrogatory Nos. 32 and 33, FPL has thrown more than enough sand in the gears of the administrative process. It is time for sanctions.

To incent FPL to play by the rules and maximize the timeliness of its responses and filings, SFHHA respectfully requests attorneys' fees associated with gaining access to the discovery responses addressed in SFHHA's two pending Motions to Compel and associated with pursuing the disposition of the February 27, 2002 order of the Prehearing Officer which FPL has chosen to disregard. In the alternative, SFHHA moves to strike those portions of FPL's testimony referenced in the presently overdue discovery responses. Sanctions are appropriate because FPL's conduct is clearly designed to repeatedly delay substantive responses and are inconsistent with the Commission's announced goal to "reduce delay in resolving discovery disputes," as contemplated by the Commission's October 24, 2000 Order Establishing Procedure in this docket.

III

FPL also lodged objections regarding specific discovery requests which are as meritless as its general objections. SFHHA respectfully requests that these objections be denied.

Interrogatory No.137.

For example, FPL objects to Interrogatory No. 137. Interrogatory No. 137 reads as follows:

Since 1985, please indicate all offers FPL has received for it to purchase energy from independent power projects that proposed to be constructed within the FPL control area. For each such opportunity, please provide the total capacity offered and the proposed price per megawatt hour.

FPL tortures the language of the request in order to concoct an objection. FPL places exclusive emphasis on the word "energy" in the request's first sentence - - and completely ignores the reference to "capacity" in the second - - to argue that the cost of *energy* purchases is recovered through power adjustment clauses. FPL notes that this proceeding involves base rates, and, based upon this contorted reading, FPL argues that the request becomes irrelevant.

This objection merits only the briefest attention. For starters, the question on its face inquires about the "capacity offered" FPL. FPL ignores this language and instead cribs only a reference to "energy." Of course, the term energy can be used either in a generic sense, or in order to distinguish a transaction from that involving capacity. However, given that the second sentence of the request expressly references "capacity" while cross-referencing the "opportunity" in the first sentence, FPL's narrow interpretation of the term "energy" makes no sense.

In any event, even if one accepted FPL's effort to ignore half of the request, (*i.e.*, the second sentence expressly referencing "capacity"), the request is still relevant to this proceeding, as FPL clearly knows. FPL witness Waters testifies about "power purchase costs" (*see* Direct p. 40: 13-22). Moreover, offers to sell energy are indicative of the value of power, and to the extent FPL attempts to justify the prudence of major investments in generating plant, data regarding the cost of power are relevant. The data also are relevant because FPL claims that it faces exposure on its contracts under which it acquires power from, *inter alia*, an affiliate of the Southern Company. Of course, the *real* exposure FPL experiences under that contract is not the total cost of acquiring the power, but rather the difference between that cost and what the power could be sold for in the market.

Thus, SFHHA Interrogatory No. 137 is entirely appropriate and FPL should respond to it.

Interrogatory No. 129

Further, FPL objected to Interrogatory No. 129. It would be hard to envision an objection more devoid of merit. Interrogatory No. 129 reads as follows:

Please state whether FPL has issued any requests for proposals to fulfill all or some portion of its margin reserve requirements. If the answer is in the affirmative, please provide copies of the RFP's and all responses that were received. Please also state whether FPL accepted any of the proposals and identify which proposals were accepted. If FPL has not accepted any of the proposals, please explain why. If FPL has not issued any requests for proposals for new generation, please explain the failure to provide such an RFP.

FPL objects to this request in part because an RFP issued in 2001 "would help meet its reserve margin requirements in the 2005/2006 timeframe, [and] . . . FPL's 2002 test year includes nothing in rate base or expenses for that capacity." FPL's Objections and Clarification Request, p. 11.

FPL's objection on this score is wholly disingenuous. Presumably FPL is familiar with its own testimony in this proceeding; indeed, the requests at issue relate to that testimony. FPL's Mr. Waters discusses at some length:

- FPL's reserve margin standards (Direct, p.6: 10 –22; p. 7: 21 - p. 8: 8);
- FPL purchase arrangements running through 2006 (Direct, p. 39: 16 – p. 40: 12); and
- Reserve margins through 2006-2007 (Direct, p. 45: 19 – p. 46: 15); Exh. ____, Document No. SSW – 17.

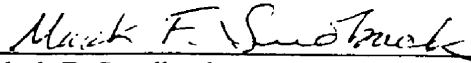
FPL cannot have it both ways. Either these topics are relevant, and Interrogatory No. 129 therefore is as well, or these and related topics are irrelevant, and FPL's testimony should be stricken.¹

IV.

WHEREFORE, for the foregoing reasons, SFHHA respectfully requests that:

- (1) FPL's objections be deemed untimely and rejected;
- (2) FPL be subjected to sanctions as identified herein;
- (3) If the relief in (1) is not granted, then FPL's objections as addressed above herein be rejected; and
- (4) FPL be directed to respond promptly to the requests identified herein.

Respectfully submitted,


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Washington, D.C. 20006
Ph. (202) 662-3030; Fax (202) 662-2739

ATTORNEYS FOR SFHHA

March 4, 2002

¹ SFHHA in this request seeks data involving the period on and after January 1, 1999, so that FPL's objection regarding the 1989 RFP is irrelevant.

**CERTIFICATE OF SERVICE
DOCKET NO. 001148-EI**

I HERBY CERTIFY that a true and correct copy of the foregoing will be furnished by facsimile* and U.S. Mail to the following parties, this 32nd day of March, 2002.

Robert V. Elias, Esquire
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Florida Public Service Commission
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Tallahassee, Florida 32399-0850

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Mark F. Sundback

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail rates of
Florida Power & Light Company

§
§

Docket No.: 001148-EI
Date Filed: February __, 2002

**SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S
EIGHTH SET OF INTERROGATORIES NOS. (75-139) AND
REQUEST FOR PRODUCTION OF DOCUMENTS
(NOS. 65-95) TO FLORIDA POWER AND LIGHT COMPANY**

Pursuant to Rule 25-22.034, Florida Administrative Code, and Rule 1.350, Florida Rules of Civil Procedure, South Florida Hospital and Healthcare Association ("SFHHA"), by and through its undersigned attorneys, hereby serves the following Interrogatories (Nos. 75-139) and Request For Production of Documents (Nos. 65-95), upon Florida Power and Light Company (FPL).

Please provide the following responses and documents as directed below, no later than twenty (20) days after service of this request unless a shorter response period has been designated by the Commission.

INSTRUCTIONS AND DEFINITIONS

SFHHA hereby incorporates by reference the Instructions and Definitions included in its First Set of Interrogatories and Requests for Production of Documents.

1. INTERROGATORIES

General Questions

75. Provide an explanation of the basis for rebates or distributions from NEIL.
76. Does the Company agree with the proposition that NEIL distributions credited for periods during which premiums were included in rates should be returned to ratepayers? If the answer is yes, explain how the company proposes to credit ratepayers with such distributions. If the answer is no, please explain the basis for your answer. .

77. Please identify the ratemaking allowance for insurance provided by NEIL from the first year such insurance was obtained to the present.
78. Identify the annual amounts actually paid for NEIL insurance from the first year such insurance was obtained to the present. For each year, show at a minimum, the titles of the individual policies; the base policy premium; any credits or penalties; any other adjustments and distributions.
79. Provide the amount of the Capitalized Account Balance associated with membership in NEIL for each year in which such membership has been maintained by the company.
80. Describe the company's position regarding the issue of non-insured members of NEIL as it relates to the status of Member Account Balances in future distributions.
81. Explain the implication of the company's position on non-insured NEIL members for ratepayers.
82. Please state whether the company was a member of Nuclear Material Limited ("NML").
83. To the extent that FPL accumulated a Capitalized Member Account Balance, or other comparable consideration associated with coverage by NML, explain how such consideration was completed upon the merger of NML and NEIL.
84. Please identify the amount of net plant transferred by FPL to FPL FiberNet by year, and the rate of depreciation applicable thereto prior to the transfer; if more than one rate of depreciation was applicable, identify the amount of net plant subject to each of the rates of depreciation.

Re: Testimony and Exhibits of John G. Shearman

85. With respect to Document JMS-3, please indicate the size of the sample (a) within the United States and (b) outside the United States. Please indicate the type(s) of reactor operated by FPL, and the proportion of reactors of that type in the sample population, broken out as between those in the United States and those outside of the United States. Please identify the other type(s) of reactors that are contained in the sample population and the relative percentages that each represents of the sample population. Please provide a comparable set of data for Documents JMS-4 and JMS-5. In the witness' opinion, what is the cause of the significant decrease in forced outage rates for the sample group from 1997 through 2000.
86. With respect to Document JMS-6, please provide the capacity-weighted average age of FPL generation, and the capacity-weighted average of the capacity included in the sample. Please describe the types of fuel utilized in the sample capacity, and the portion of capacity in the sample using each type of fuel and provide comparable information for

FPL. Is it the witness's experience that age and type of unit may affect the level of outage or availability? Please provide information comparable to the foregoing for Document JMS-7.

87. Please provide the data and show graphs comparable to Documents JMS-10 and 11 if fuel, purchased power and ECCR are included.
88. With respect to Document JMS-12, please provide a comparable graph using net plant per customer.
89. With respect to Document JMS-12, please compare the average population density per square mile associated with the national sample to that experienced in FPL service territory, and identify the sources (by publication title, date, publisher and page number) of data supporting your response.
90. Please provide the underlying data for Documents JMS-13, JMS-14, JMS-15 and JMS-19 through 21.
91. With respect to Documents JMS -10 and JMS-19 through JMS-25, please compare the level of growth in the aggregate number of customers and kilowatt hours sold as between, on the one hand, FPL and on the other, the various "panels" or peer groupings (e.g., national, regional, and large).
92. With respect to Documents JMS-3 through JMS-5, please provide (a) refueling schedules for the FPL units, and (b) the refueling schedules for the survey sample units.
93. With respect to Documents JMS-3 through JMS-5, please provide data comparable to that contained in the documents using only those nuclear units of the same technology as the FPL units (e.g., BWR), and identify the sources (by publication title, date, publisher and page number) of data supporting your response.
94. With respect to Documents JMS-6 and 7, please provide data comparable to that contained in the Documents, sorted by type of fuel burned in the units, for (a) FPL and (b) the sample.
95. With respect to page 11:17-21, please identify each "adjustment" made to the data, and provide all workpapers effecting the adjustments. Please describe why, in your opinion, each adjustment was necessary or desirable. Please provide graphs, comparable to those you have sponsored using adjusted data, reflecting the unadjusted data.
96. With respect to page 13: 22 to page 14: 10 and Documents JMS-13 through JMS-15, are the "price" data derived from rates filed subject to refund, or from rates that are finally approved and no longer subject to revisions, or rates in effect but still subject to revision at least on a prospective basis in a pending proceeding, and are they net of, or are they

without regard to, surcharges, riders or other adders to base rates? Please provide the documents supporting your answer.

97. With respect to page 14: 20-22 and Document JMS-23, please indicate the level of accumulated deferred income taxes recognized in the calculation of "net asset base per customer," and identify the sources (by publication title, date, publisher and page number) of data supporting your response.
98. Please discuss and describe in detail and provide all documents related to. Mr. Shearman's investigation concerning whether, or the extent to which, FPL's efforts to reduce costs during the period 1999 – 2001, will cause or could cause costs in any category to increase for any period following 2001. If Mr. Shearman did not investigate that topic please so state.
99. Please quantify in Mr. Shearman's opinion the amount of increase in net profits that FPL enjoyed during the period 1999- April 1, 2002 as a result of FPL's lower costs and efficiency enhancements. Please provide your workpapers and supporting documents and describe how you went about calculating the amount.
100. With respect to Mr. Shearman's testimony and exhibits please compare the weighted average age of the FPL generation fleet with that of the various samples that are used for comparison purposes in Mr. Shearman's materials.

Re: Testimony and Exhibits of M. Dewhurst

101. With respect to page 9: 10-14, how do we determine, in the witness' opinion how a company is seen through current and potential investors' eyes? Describe the basis for your conclusion.
102. With respect to page 12: 4-9, please quantify the impact that you have factored into the company's request for return on equity associated with this reduced risk. Please provide all workpapers.
103. With respect to page 20: 1-14 when assessing the exposure posed by the purchased power agreements, please indicate the presumed market value of the power to the extent it would have to be sold in the market rather than consumed by FPL. Please identify and explain all assumptions behind your calculation.
104. With respect to page 21: 3-6, please identify each reason for the downgrade from "AA" to "A", and quantify the impact of each factor on the decision.
105. For each year since the establishment of the storm fund reserve, please show the accruals to, and the expenditures from the reserve.

Re: Testimony and Exhibits of Mark Bell

106. Referring to page 10:22, please describe all reasons that support the increase in O&M expense of \$23 million.
107. Referring to page 10:24, please describe all reasons that support the decrease in capital of approximately \$76 million.
108. Referring to page 11: 1-2, please describe all reasons that support the forecast of the decrease in revenues of \$100 million.
109. Referring to page 2: 20- 3:2 and page 13: 22 – p. 14: 2, please identify each assumption the witness reviewed, describe the level of review Mr. Bell performed of such assumption, describe the method of testing of each assumption to determine if it was reasonable, identify each step in your analysis, provide your workplan and any other document describing the scope of your analysis; identify the fee charged for these services and the individuals involved; and provide copies of your workpapers, including the data samples tested and the conclusions reached.
110. Please state whether FPL's forecasting system includes models that utilize regression analysis. Please provide all statistical tests or measures the reliability and/or accuracy, of any computer model, simulation, computation or statistical calculation related to the Company's testimony, including: F statistics; R bar squared statistics; T-statistics; root-mean-squared statistics; Durbin-Watson statistics; and standard error coefficients or measures. Please provide all other measures of statistical reliability generated with respect to the model, its predecessors or its projections or any documents relating to the accuracy or reliability of the model, or its results.

Re: Testimony and Exhibits of James K. Peterson

111. Referring to pages 3-9: for the period beginning January 1, 1994, please provide the following data on an annual basis for each of FPL and the services company whose costs are allocated to FPL:
 - (a) the full time equivalent weighted average headcount of employees; and
 - (b) the total payroll costs associated with each annual headcount by company by FERC account number.

Also, please identify for the period the total annual payroll cost attributed by the services company to FPL, by FERC account number (if available).

Re: Testimony and Exhibits for Michael Davis

112. Referring to Document KMD-1, page 32 of 41, please explain the methodology used to determine compensation per hour.
113. With respect to Document KMD-1, page 33 of 41, please explain the basis for the determination that the prime interest rate in 2002 would be 7.1 percent. In providing your response, please describe all assumptions used in the determination. Also, please provide all workpapers that support the 7.1 percent prime interest rate. Also, please set forth each 12 month period during the preceding 30 years when the level of the prime interest rate has increased by 40 percent or more in a 12 month period.
114. With respect to Document KMD-1, page 40 or 41, please state the current balance in FPL's nuclear decommissioning reserve.
115. With respect to Document KMD-1, page 22 of 41, please describe the methodology used in, and provide all workpapers that support, the reevaluation of FPL's sales forecast made subsequent to the 9/17/01 MFR filing.
116. Please state the discount rate that was used for purposes of Statement of Financial Accounting Standards No. 87, Employer's Accounting For Pensions (FAS 87) and Statement of Financial Accounting Standards No. 106, Employer's Accounting For Post-Retirement Benefits Other Than Pensions (FAS 106).
117. Please state the amount of the distributions that FPL has received from its nuclear property insurer ("NEIL") each year for the period 1995 through 2001. Additionally state the expected distribution from NEIL in 2002 and 2003.
118. Please provide a detailed breakdown of the costs encompassed in the \$5.4 million claim for rate case expenses.

Re: Testimony and Exhibits of Steven E. Harris

119. For each model utilized, please provide a listing of all inputs into the model. For each input assumption, please provide a description of the basis for the assumption.
120. With respect to the Solvency Analysis, please describe the reasons for not including variability in storm frequency and severity distributions.
121. Referring to Table 6-1, please state the SSI level associated with the each hurricane.
122. With respect to table 6-1, please describe the differences between the data in row "FPL Actual Losses" and the data in the row "FPL Losses in 1999 \$*".

123. With respect to hurricanes at levels SS 1 through SS 5, please state the probability of each occurring during the year. Please also state the number of years between expected occurrences at each hurricane level.
124. Separately for hurricane levels SS 1 through SS 5, please calculate exceedence probabilities in the form of Table 9-2.
125. Referring to Document SPH-2, page 23, please state whether the projected expenses for T&D and other were generated by a computer model or were input assumptions. If the expenses were input assumptions, please describe all reasons that support the level and timing of the expected expenses.
126. For each model utilized in your analysis, please provide all statistical tests or measures of the reliability and/or accuracy, of each such model, including: F statistics; R bar squared statistics; T statistics; Root mean squared statistics; Durban Watson statistics; and standard air co-efficients or measures. Please provide all other measures of statistical reliability generated with respect to the model, its predecessors or its projections or any documents relating to the accuracy or reliability of model, or its results.

Re: Testimony and Exhibits of Paul J. Evanson

127. For each year from 1985 through 2001, please state the range of FPL's authorized rate of return on equity and actual return on equity. Additionally, for each year in which FPL's rate of return on equity exceeded the authorized high point, please state the amount by which FPL's return on equity exceeded the return that would have been achieved based upon the highest authorized rate of return on equity.

Re: Testimony and Exhibits of Samuel S. Waters

128. With respect to Document No. SSW-4, please provide the capacity-weighted average of FPL generation, and the capacity-weighted average of the capacity included in the sample. Please describe the types of fuel utilized in the sample capacity, and the portion of capacity in the sample using each type of fuel and provide comparable information for FPL. Please state whether it is the witness' experience that age and type of unit may affect the level of availability? Please identify the 22 utilities that comprise the sample. Please provide information comparable to the foregoing for Document SSW-6.
129. Please state whether FPL has issued any requests for proposals to fulfill all or some portion of its margin reserve requirements. If the answer is in the affirmative, please provide copies of the RFP's and all responses that were received. Please also state whether FPL accepted any of the proposals and identify which proposals were accepted. If FPL has not accepted any of the proposals, please explain why. If FPL has not issued any requests for proposals for new generation, please explain the failure to provide such an RFP.

130. With respect to Document No. SSW-9, please identify the utilities that were included in the graph of the industry average. For each such utility, please identify the age and type of fuel used in its plants.
131. Referring to page 23, line 11, please provide all assumptions that were used in estimating the proxy prices of \$400 and \$500 per kilowatt hour.
132. Referring to page 24, please explain the basis for the estimate of nuclear fuel costs at \$4 per megawatt hour and oil and gas fuel costs at \$30 per megawatt hour. Also, please provide workpapers supporting your calculations.
133. Referring to page 38, lines 8 through 10, please explain why the commercial/industrial load control program currently is closed to new customers. Please state the date that the program was closed and describe FPL's intent, if any, to reopen the program.
134. Referring to page 39, lines 20 through 21, please indicate whether the 445 megawatts of qualifying facility capacity is under one or multiple contracts. For each such contract, please identify the seller, the energy requirement under the contract, and the duration of the contract.
135. Please provide a copy of each contract associated with the 445 megawatts of qualifying facility capacity referenced at page 39, lines 20 through 21.
136. Referring to page 40, lines 8 through 10, please state whether the purchases of 886 megawatts of capacity are pursuant to long-term agreements, or whether the energy is purchased on an as available basis.
137. Since 1985, please indicate all offers FPL has received for it to purchase energy from independent power projects that proposed to be constructed within the FPL control area. For each such opportunity, please provide the total capacity offered and the proposed price per megawatt hour.
138. Please state whether FPL analyzed the impact on ratepayers of repowering the Ft. Myer's and/or Sanford units versus purchasing an equivalent amount of energy from independent power producers. If the answer is in the affirmative, please produce all documents reflecting FPL's analysis.
139. Please state the reserved margin anticipated for the period 2002 through 2110 based upon the revised economic forecast performed post-September 11, 2001.

II. DOCUMENT PRODUCTION REQUESTS

65. Provide copies of the annual report and/or "Summary of Operations" issued by Nuclear Electric Insurance Limited ("NEIL") for the two most recent reporting years.

- 66. Provide copies of all correspondence or documentation of any kind exchanged between the company and NEIL since January 1, 1998.
- 67. Provide copies of all documents generated by the company, its agents or contractors which deal in any way with insurance coverage provided by NEIL.
- 68. Provide copies of all workpapers or other documents relied upon in developing the test year estimates of NEIL premiums and rebates, and the annual NEIL costs for the projected test year.

Re: Testimony and Exhibits of John G. Shearman

- 69. Please provide a copy of the engagement letter, contract or agreement(s) governing the testimony of each witness in this proceeding, including amendments(s) thereto. The hourly rate of the witness may be deleted from the document.
- 70. Please provide all documents related to whether a utility has any discretion in the level of O&M costs' timing. Please provide all documents related to whether a utility has discretion in incurring capital costs.
- 71. Please provide all documents involving FPL costs that Mr. Shearman reviewed to determine that projected increases in FPL following 2001 are appropriate.
- 72. Please provide copies of all studies, assessments or reports performed by UMS for or on behalf FP&L.
- 73. Please provide a copy of Mr. Shearman's address entitled "How to Make Money in the Wires Business."

Re: Testimony and Exhibits of M. Dewhurst

- 74. With respect to page 3: 1-7, please provide a copy of the S&P issuance and any press release issued in response thereto by FPL.
- 75. With respect to page 18:20 through 19: 3, please provide all workpapers and related documents supporting or involved in the calculation discussed there.
- 76. With respect to page 29: 18-23, please provide a copy of any direction that was provided by FPL to ABS Consulting including letters, memoranda, engagement documents, contracts and agreements.

Re: Testimony and Exhibits of Mark R. Bell

- 77. Please provide a copy of the American Institute of Certified Public Accountant's "Guide For Prospective Financial Information."

- 78. Please produce all recalculations of computations referred to at page 9:23, including workpapers.
- 79. Please provide a copy of the report referenced at page 12:10 of the testimony of Mark R. Bell.
- 80. Please provide all comparisons of forecasts to actual amounts for the years 1998, 1999 and 2000.

Re: Testimony and Exhibits of Dr. Stuart J. McMenamin

- 81. Please produce copies of all documents reviewed by Dr. J. Stuart McMenamin as part of the analysis discussed at page 8:5 through page 10:13 of his testimony.
- 82. Please produce all documents that support the assertion that computer equipment accounts for 5 percent or less of current electricity usage and that this will grow to 50 percent of total use is not realistic set forth at page 12: 10-12 of Dr. McMenamin's testimony.

Re: Testimony and Exhibits of Michael Davis

- 83. With respect to Document KMD-1, page 32 of 41, please provide all workpapers that support the interest rates set forth in items a through e.
- 84. Please provide workpapers that support FPL's discount rate for purposes of FAS 87 and FAS 106. Also please provide the discount rate survey of 20 corporate clients that FPL's actuaries used in relation to FAS 87 and FAS 106.

Re: Testimony and Exhibits of Steven E. Harris

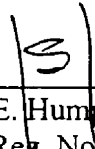
- 85. Please produce documentation for each computer model referenced in your testimony.
- 86. Referring to Document SPH-1, page 19, please provide all data design standards and engineering judgments that were provided to EQE by FPL.
- 87. Please provide the study that formed the basis for the discussion at page 37 of Document SPH-1.
- 88. Referring to Document SPH-1, page 38, please provide copies of the nuclear industry studies that provide the frequency and severity of nuclear accidents.
- 89. Referring to Document SPH-1, page 40, please provide copies of the level 1 PRA studies referred to therein.

90. Please produce copies of each of the seven documents which are references set forth in Document SPH-1, page 44.

Re: Testimony and Exhibits of Samuel S. Waters

91. Please provide a copy of the UPS agreement with the Southern Companies referred to at page 40, lines 1 through 2.
92. Please provide a copy of all agreements concerning the ownership and power purchase agreements associated with the St. John's River Power Park.
93. Please provide copies of the short-term agreements referred to at page 40, lines 10 through 12.
94. Please produce all studies which evaluated the economics of repowering the Ft. Myers and/or Sanford units versus purchasing energy from independent power producers.
95. Please state whether Document SSW-20 reflects FPL's entire analysis of the cost of others constructing combined cycle plants during the period 1991 through 1999. If not, please produce all documents that show the costs of others building combined cycle plants during the relevant time period.

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Attorneys for the Hospitals and SFHHA

February __, 2002

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**In re: Review of the retail rates of
Florida Power & Light Company**

§
§

**Docket No.: 001148-EI
Dated Filed: February 5, 2002**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of South Florida Hospital and Healthcare Association's Eighth Set of Discovery Requests have been served by Federal Express to John T. Butler, Esquire, Steel, Hector & Davis, 200 South Biscayne Boulevard, Miami, Florida 33131 on behalf of Florida Power and Light Company and that a true copy thereof has been furnished by U.S. mail this 5th day of February, 2002 to the following:

Robert V. Elias, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

John T. Butler, P.A.
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Tallahassee, Florida 32314-5256

Mark F. Sundback

ATTACHMENT B

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of the retail rates of
Florida Power & Light
Company.

) Docket No. 001148-EI
) Dated: February 19, 2002
)
)
)
)

FLORIDA POWER & LIGHT COMPANY'S
OBJECTIONS TO AND REQUESTS FOR CLARIFICATION OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION'S
EIGHTH SET OF INTERROGATORIES (NOS. 75-139)
AND REQUEST FOR DOCUMENTS (NOS. 65-95)

Florida Power & Light Company ("FPL") hereby submits the following objections to and requests for clarification of the South Florida Hospital and Healthcare Association's Eighth Set of Interrogatories and Request to Produce (the "SFHHA Eighth Request").

I. Preliminary Nature of These Objections

The objections stated herein are preliminary in nature and are made at this time in compliance with the requirement of Order No. PSC-01-2111-PCO-EI that objections be served within ten days of receipt of discovery requests. Should additional grounds for objection be discovered as FPL develops its response, FPL reserves the right to supplement or modify its objections up to the time it serves its responses. Should FPL determine that a protective order is necessary regarding any of the requested information, FPL reserves the right to file a motion with the Commission seeking such an order at the time its response is due.

II. General Objections.

FPL objects to each and every one of the interrogatories and requests for documents that calls for information protected by the attorney-client privilege, the work product doctrine, the accountant-client privilege, the trade secret privilege, or any other applicable privilege or protection afforded by law, whether such privilege or protection appears at the time response is

FPL incorporates by reference all of the foregoing general objections into each of its specific objections set forth below as though stated therein.

II. **Specific Objections and Request for Clarification**

Interrogatory Nos. 78 and 79. FPL objects that the time period covered by these interrogatories is unduly burdensome, and that information from the earlier portion of that time period is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. The interrogatories ask FPL to identify certain insurance policy and payment information about Nuclear Electric Insurance Limited ("NEIL"), for each year in which FPL has been a member of NEIL. FPL joined NEIL in the early 1980s, so the interrogatories are asking FPL for information spanning nearly twenty years. There is no way that FPL's NEIL insurance coverage or its payments to or credits from NEIL over twenty years ago could meaningfully affect the 2002 test year that is at issue in this docket. FPL will respond to Interrogatory Nos. 78 and 79 for the period from 1998 to present.

Interrogatory Nos. 80 and 81. FPL objects that these interrogatories seek information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. They ask about FPL's *position* on NEIL's internal policies concerning the status of non-insured NEIL members with respect to future NEIL distributions. FPL has no authority to impose those positions on NEIL or other NEIL members. NEIL's management will follow whatever internal policies it believes best, subject to NEIL's organizing documents and oversight by NEIL's collective membership as provided in those organizing documents. Accordingly, one can only speculate as to how, if at all, FPL's positions on internal NEIL policies will affect NEIL's management decisions. And then one would have to speculate further on how NEIL's management decisions might affect FPL's entitlement to future

distributions from NEIL member accounts. Finally, one would have to speculate yet again on how such distributions might affect FPL's test year results, which is the proper focus of this proceeding. That is far too tenuous a connection to justify discovery.

Interrogatory No. 83. FPL objects that this interrogatory seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. It asks about how FPL's member account balance with Nuclear Mutual Limited ("NML") was consolidated with FPL's NEIL member account when NML and NEIL merged. FPL can see no possible relevance of specifics about that consolidation to FPL's 2002 test year results, which is the proper focus of this proceeding. The member account consolidation was performed by NEIL, and the results of the consolidation are already reflected in FPL's member account balance. FPL will be providing information on its NEIL Capitalized Account Balance for 1998 to present in response to Interrogatory No. 79.

Interrogatory Nos. 85-139 (the "Witness Interrogatories"). In contrast to Interrogatory Nos. 75-84, which appear under a heading for "General Questions," the Witness Interrogatories all appear under headings that reference the direct testimony and exhibits of various FPL witnesses. Those headings, together with the nature of the Witness Interrogatories, suggest that the SFHHA intends them as discovery into the basis and support for the FPL witnesses' testimony. They will be answered from that perspective. In many instances, the Witness Interrogatories seek analyses that have not been performed, or data that have not been collected, in connection with the preparation of the FPL witnesses' testimony. To the extent that they seek such analyses or data, FPL objects to the Witness Interrogatories as beyond the scope of proper discovery from witnesses. FPL will respond to the Witness Interrogatories based on analyses

performed, and data collected, in connection with the preparation of the FPL witnesses' testimony.

Many of the Witness Interrogatories ask for "workpapers" (or similar documentation) supporting witnesses' testimony or analyses performed in connection with the testimony. This is more in the nature of a request for production than an interrogatory. Including copies of voluminous workpapers as part of the responses to the SFHHA's interrogatories that FPL serves would be burdensome. FPL will produce documents responsive to such interrogatories at the place and time that documents responsive to the requests for documents in the SFHHA Eighth Request are produced.

Interrogatory No. 129. FPL objects that this interrogatory seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. It further objects that responding to the interrogatory would be unduly burdensome. The interrogatory seeks copies of RFPs issued by FPL to meet its reserve margin requirements and the responses that FPL received to those RFPs. FPL has issued two RFPs that would potentially be responsive to this interrogatory, but neither of them is properly the subject of discovery in this proceeding.

In 1989, FPL issued an RFP for alternatives to its planned purchase of a share of the Scherer Unit 4 coal-fired plant from Georgia Power Company. FPL concluded that none of the responses to the 1989 RFP was as favorable as the Scherer Unit 4 purchase, which the Commission approved in Order No. 24165 in Docket No. 900796-EI. FPL then proceeded with the Scherer Unit 4 purchase, consistent with the Commission's approval. Scherer Unit 4 costs are included in FPL's 2002 test year rate base and expenses; no costs associated with the 1989 RFP are included in the test year. There is nothing further to consider about the 1989 RFP in this

proceeding. Locating and producing the 1989 RFP and responses thereto would be burdensome to FPL and would add no relevant information to this proceeding.

In 2001, FPL issued an RFP for capacity that would help meet its reserve margin requirements in the 2005/2006 timeframe, and it received numerous responses to that RFP. Because the 2001 RFP is for generation capacity in the 2005/2006 timeframe, FPL's 2002 test year includes nothing in rate base or expenses for that capacity. Therefore, the 2001 RFP is not relevant to this proceeding. Producing the documents that the SFHHA seeks would be burdensome, both because of the volume of those documents and the need to address confidentiality restrictions that affect many of them. As with the 1989 RFP, this burden would not be offset by any benefit in the form of adding relevant information to this proceeding.

Interrogatory No. 137. FPL objects that this interrogatory seeks information that is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence in this proceeding. The interrogatory asks for "offers FPL has received for it to purchase *energy* from independent power projects" (Emphasis added). FPL recovers the energy cost of purchased power through adjustment clauses, not base rates. Therefore, information on energy purchases would not be relevant to this proceeding, which is a review of FPL's base rates. Moreover, the interrogatory asks about all energy-purchase offers FPL has received since 1985. Energy purchases, by their nature, cannot satisfy capacity requirements. Therefore, the requested information would shed no light on FPL's power-supply planning decisions.

Interrogatory No. 139. This interrogatory asks FPL to state its anticipated reserve margin for the period from 2002 through 2110. FPL expects that this last number is a typographical error; it cannot imagine that the SFHHA would presume to ask for reserve-margin projections covering more than a century. FPL assumes that the SFHHA intended to write "2010" and will

respond for the period 2002 through 2010 unless and until the SFHHA provides clarification otherwise.

Request for Documents Nos. 66 and 67. FPL objects that these requests for documents are overbroad and that responding to their full scope would be unduly burdensome. The seek essentially every scrap of paper related to FPL's dealings with NEIL. And, in the case of Request for Production No. 67, the request not even limited to a finite time period. FPL's dealings with NEIL are relevant to this proceeding, if at all, only to the extent that they relate to FPL's payment of premiums to, and receipt of credits from, NEIL. FPL will respond to Request for Documents Nos. 66 and 67 by providing copies of its current NEIL policies, as well as invoices and correspondence since January 1, 1998, related to the payment of NEIL premiums and receipt of NEIL credits.

Request for Documents No. 69. This request for documents is in a section with a heading that reads "Re: Testimony and Exhibits of John G. Shearman." However, the request does not appear to be limited to Mr. Shearman. FPL will respond to Request to Produce No. 69 with respect to all FPL witnesses who have prefiled testimony.

Request for Documents No. 85. This request for documents seeks "documentation" for each computer model referenced in the testimony of Steven Harris. Neither FPL nor Mr. Harris knows what the SFHHA means by "documentation" of computer models. The principal model relied upon by Mr. Harris is proprietary to him. Certain information about the model (e.g., the model's computer code, and its operating instructions) could be produced only under a very tightly controlled confidentiality arrangement; other information might not require confidentiality protection at all. Before FPL can begin determining how to respond to Request for Documents No. 85, the SFHHA must clarify specifically what sort of information it seeks.

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Respectfully submitted.

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By:



John T. Butler, P.A.
Fla. Bar No. 283479

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

Re: Review of the Retail Rates of)
 Florida Power & Light Company) Docket No. 001148-EI

DIRECT TESTIMONY
AND EXHIBITS
OF
LANE KOLLEN

ON BEHALF OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION

J. KENNEDY AND ASSOCIATES, INC.
ROSWELL, GEORGIA

February 2002

PUBLIC VERSION

Re: Review of the Retail Rates of) **Docket No. 001148-EI**
Florida Power & Light Company)

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

Re: Review of the Retail Rates of Florida Power & Light Company) **Docket No. 001148-EI**
)

DIRECT TESTIMONY OF LANE KOLLEN

I. QUALIFICATIONS AND SUMMARY

Q. Please state your name and business address.

A. My name is Lane Kollen. My business address is J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia 30075.

Q. What is your occupation and by whom are you employed?

A. I am a utility rate and planning consultant holding the position of Vice President and Principal with the firm of Kennedy and Associates.

Q. Please describe your education and professional experience.

1 A. I earned a Bachelor of Business Administration in Accounting degree from the
2 University of Toledo. I also earned a Master of Business Administration degree from
3 the University of Toledo. I am a Certified Public Accountant, with a practice license,
4 and a Certified Management Accountant.

5
6 I have been an active participant in the utility industry for more than twenty years, both
7 as an employee and as a consultant. Since 1986, I have been a consultant with
8 Kennedy and Associates, providing services to state government agencies and large
9 consumers of utility services in the ratemaking, financial, tax, accounting, and
10 management areas. From 1983 to 1986, I was a consultant with Energy Management
11 Associates, providing services to investor and consumer owned utility companies.
12 From 1978 to 1983, I was employed by The Toledo Edison Company in a series of
13 positions encompassing accounting, tax, financial, and planning functions.

14
15 I have appeared as an expert witness on accounting, finance, ratemaking, and planning
16 issues before regulatory commissions and courts at the federal and state levels on more
17 than one hundred occasions. I have developed and presented papers at various industry
18 conferences on ratemaking, accounting, and tax issues. I have testified before the
19 Florida Public Service Commission in Docket Nos. 870220-EI (Florida Power Corp.),
20 8800355-EI (Florida Power & Light), 881602-EU and 890326-EU (City of
21 Tallahassee), 890319-EI (Florida Power & Light), 910840-PU (Generic Proceeding Re
22 SFAS 106), 910890-EI (Florida Power Corp.), and 920324-EI (Tampa Electric

1 Company). My qualifications and regulatory appearances are further detailed in my
2 Exh.__(LK-1)).

3

4 **Q. On whose behalf are you testifying?**

5

6 A. I am testifying on behalf of the South Florida Hospital and Healthcare Association
7 (“SFHHA”)

8

9 **Q. What is the purpose of your testimony?**

10

11 A. The purpose of my testimony is to address several revenue requirement issues,
12 including the revenue refund included by the Company in the test year relating to the
13 effects of the Rate Agreement in prior years; the special depreciation allowed pursuant
14 to the Commission’s Order in Docket 990067-EI; further depreciation effects on the
15 Company’s nuclear units of license renewals (life extensions) of 20 years; deferred
16 pension debit included by the Company in working capital; storm damage expense,
17 reserve, and funding; projected growth in operation and maintenance expense;
18 capitalization structure. I also discuss matters associated with FPL’s capital additions.

19

20 **Q. Please summarize your testimony.**

21

22 A. I recommend that the Commission reduce the Company’s revenue requirement by at
23 least \$475 million based upon the following adjustments.

1
2 Remove the revenue refund due to the effects of the 1999 Rate
3 Agreement. (\$34.086 million reduction).
4

5 Reduce depreciation expense to reflect Turkey Point 3 and 4 and St.
6 Lucie 1 and 2 20-year service life extensions. (\$77.485 million
7 reduction).
8

9 Amortize the special nuclear and fossil depreciation allowed
10 pursuant to 1999 Rate Agreement over three years. (\$53.574 million
11 reduction).
12

13 Remove the deferred pension debit included by the Company in
14 working capital. (\$62.873 million reduction).
15

16 Eliminate increase in storm damage expense. (\$30.315 million
17 reduction)
18

19 Reflect rate of return based upon internal funding of storm damage
20 reserve treated as rate base reduction. (\$31.099 million reduction).
21

22 Reduce projected growth in operation and maintenance expense,
23 excluding the proposed increase in storm damage expense from
24 9.2% to 4.6%. (\$47.432 million reduction).
25

26 Adjust overall return for accumulated deferred income tax effects of
27 rate base adjustments. (\$34.140 million increase)
28

29 Limit the common equity in the capitalization structure to 50%,
30 quantified on a traditional basis. (\$172.545 million reduction).
31
32
33
34

II. REFUND DUE TO RATE AGREEMENT

1

2

3 **Q. Please describe how the Company has reflected its projection of the refund in the**
4 **2002 test year related to the 1999 Rate Agreement.**

5

6 A. The Company has reflected a \$34.086 million projection of the refund for prior years
7 pursuant to the 1999 Rate Agreement as a permanent adjustment (reduction) to
8 existing and ongoing base rate tariff levels.

9

10 **Q. Should the Commission make an adjustment to remove this refund amount from**
11 **test year operating income?**

12

13 A. Yes. This refund amount does not reflect a permanent adjustment to existing and
14 ongoing base rate tariff levels. Test year operating income should reflect the existing
15 and ongoing base rate tariff levels without refunds related to prior periods. As such,
16 the projected \$34.086 million refund should be taken out of operating income on a pro
17 forma basis.

18

19 **Q. Why is the refund not a permanent feature?**

20

21 A. The arrangement under the 1999 Rate Agreement expires in the spring of 2002. Thus
22 the revenue-sharing threshold under which the refund will arise will not apply to
23 revenue levels once the 1999 Rate Agreement is no longer effective.

1

2

III. DEPRECIATION AND AMORTIZATION

3

Depreciation on Turkey Point 3 & 4 and St. Lucie 1 & 2

4

5

Q. What service life is reflected currently in the depreciation rates for the Turkey Point 3 and 4 and St. Lucie 1 and 2 nuclear units?

6

7

8

A. The depreciation rates most recently authorized by the Commission for these nuclear units reflect service lives of 40 years. These service lives were based upon the 40-year terms of the initial NRC operating licenses for the units.

9

10

11

12

Q. Have there been recent changes in the expected service lives of the nuclear units?

13

14

A. Yes. FPL has applied for 20 year operating license extensions for the two Turkey Point units and the two St. Lucie units.

15

16

17

Q. Has the NRC ever refused to extend the operating license for any nuclear unit to date?

18

19

20

A. No.

1

2 **Q. Why should the Commission reflect the additional 20-year service lives of the**
3 **units for depreciation expense purposes in this proceeding?**

4

5 A. First, absent any reliable documentation to the contrary, the Company clearly plans to
6 operate these nuclear units for as long as it is physically and economically possible to
7 do so. In fact, the Company cited such economic benefits to ratepayers as the rationale
8 for applying for license extensions on the Turkey Point units. The Company stated in
9 its 2000 Annual Report to Shareholders the following:

10

11

12

13

14

15

To ensure that customers continue to receive the economic and
environmental benefits provided by Turkey Point, FPL in 2000
submitted an application to the Nuclear Regulatory Commission to
extend the plant's operating license an additional 20 years until
2033.

16

17

The Company has also prepared studies that demonstrate life extension is economic
and will provide benefits to ratepayers.

18

19

20

21

22

23

24

25

If the Company did not believe that extending the units' lives through the license
renewal process was physically possible and economically viable, based upon the facts
currently known and knowable, then it would have been imprudent for it to incur the
significant costs to extend the operating licenses. Thus, the best evidence of the
service lives of these units is the Company's current intent to continue to operate them
for an additional 20 years beyond the initial license terms.

1 Second, the existing depreciation rates are excessive because they provide for rate
2 recovery of the capital costs of the units over 40 year service lives rather than the
3 expected 60-year service lives. The mismatch between service lives and recovery
4 creates intergenerational inequities among ratepayers. The existing depreciation rates
5 and the ratemaking process provide for current and future recovery of plant additions,
6 including those that may be necessary to assure the continued operation of the plants
7 throughout their initial 40 years service lives as well as the additional 20 years.

8
9 Third, changing the depreciation rates will have a direct and immediate effect on the
10 rates otherwise charged to ratepayers as the result of this proceeding. If the
11 depreciation rates are changed subsequent to this proceeding, then the reduced expense
12 will redound to the benefit of FPL's parent company, FPL Group, unless and until base
13 rates are again reset. If the Commission waits until the Company files another
14 depreciation study, even assuming FPL reflects the service life extensions in that
15 depreciation study, it is unlikely ratepayers will receive a direct and immediate rate
16 reduction coinciding with the Commission's adoption of new depreciation rates.

17
18 **Q. Is there another reason to act on this issue in this rate case?**

19
20 **A.** Yes. If power prices are deregulated and the electric industry in Florida is restructured
21 without fixing this problem, FPL will experience a windfall – in essence, twenty years'
22 use of large generating units with effectively no capital investment left. This will
23 distort competition and means that ratepayers will have subsidized FPL unnecessarily.

1

2 **Q. Did the Georgia Public Service Commission recently approve a reduction in the**
3 **depreciation rates for Hatch 1 and 2 and Vogtle 1 and 2 based upon Georgia**
4 **Power Company's application to extend the operating licenses for the Hatch units**
5 **and its intent to do so for the Vogtle units?**

6

7 A. Yes. In December 2001, that Commission approved significantly lower depreciation
8 rates for the Hatch 1 and 2 nuclear units reflecting 20-year operating life extensions.
9 The decision was based upon then pending Georgia Power Company applications
10 before the NRC for 20-year license renewals. In January 2002, the NRC approved the
11 applications for Hatch 1 and 2, thereby renewing their operating licenses for an
12 additional 20 years.

13

14 In addition, the Georgia Public Service Commission approved depreciation rates that
15 reflected 10-year service life extensions for the Vogtle 1 and 2 nuclear units. That
16 decision was based upon Georgia Power Company's stated intent to apply for 20-year
17 license renewals on those units as soon as possible in accordance with the NRC's
18 procedural schedule for such license renewals.

19

20 **Q. Have you quantified the effect of extending the service lives by 20 years for**
21 **Turkey Point 3 and 4 and St. Lucie 1 and 2?**

22

1 A. Yes. The effect is to reduce the Company's MFR revenue requirement by \$77.485
2 million. This quantification reflects a reduction in depreciation expense of \$83.000
3 million and a related reduction in accumulated depreciation for the test year of \$41.500
4 million, but excluding the offsetting deferred tax effect reflected in the overall return
5 applied to rate base.

6 **Amortization of Special Depreciation**

7 Q. Please describe the special depreciation authorized by the Commission in
8 conjunction with its approval of a Stipulation and Settlement in Docket No.
9 990067-EI.

10

11 A. FPL was authorized to record up to an additional \$100 million annually, over a three-
12 year period, in special depreciation to reduce its nuclear and/or fossil production plant
13 in service. The Company has recorded \$170.250 million in such special depreciation.

14

15 Q. How has the Company reflected the special depreciation in its filing in this
16 proceeding?

17

18 A. The Company has reflected this special depreciation as a reduction to rate base in this
19 proceeding, but has reflected no amortization of this amount in operating income.

20

21 Q. Should the Commission amortize the special depreciation amount to the benefit of
22 ratepayers in this proceeding?

23

1 A. Yes. There is no valid reason for the Commission simply to perpetuate this temporary
2 overrecovery only as a rate base reduction, and with no amortization, going forward.
3 The Company was allowed to accumulate the special depreciation in lieu of rate
4 reductions for excess earnings during the effective period of the 1999 Rate Agreement.

5 The Company has reflected the full amount of this special depreciation as a rate base
6 reduction in its filing in this proceeding. As such, there is no dispute as to whether the
7 special depreciation is attributable to, and thus belongs to, the ratepayers. However,
8 the Company's filing provides for no return of this overrecovery to ratepayers.

9 The Commission ultimately will have to make a determination as to the disposition of
10 this overrecovery, preferably in this docket. Unless the Commission acts to amortize
11 this amount, then the special depreciation will result in an accumulated depreciation
12 reserve that exceeds the cost of the Company's existing plant and projected
13 dismantlement costs. Perhaps recognizing the inequities of a similar situation in a
14 previous docket, the Commission authorized the amortization of another special
15 depreciation amount over the remaining life of the underlying nuclear assets.

16
17 **Q. What amortization period should the Commission utilize to return the special**
18 **depreciation to ratepayers?**

19
20 A. A three-year amortization period would be appropriate. The special depreciation was
21 recovered from ratepayers over the three-year term of the 1999 Rate Agreement. It
22 should be returned over a comparable period. In this manner, it is more likely that the

1 those ratepayers that paid the excess revenues for the special depreciation will be the
2 beneficiaries of the return of those revenues.

3

4 **Q. Have you quantified the effect on the revenue requirement of a three-year**
5 **amortization of the special depreciation?**

6

7 **A. Yes. A three-year amortization would reduce the revenue requirement by \$53.574**
8 million. The amortization expense would be negative \$56.750 million and rate base
9 would increase by \$28.375 million, assuming a uniform amortization throughout the
10 test year, and excluding the offsetting deferred tax effect reflected in the overall return
11 applied to rate base.

12

13

IV. DEFERRED PENSION DEBIT

Q. Please describe the deferred pension debit included by the Company in its cash working capital computation.

A. The Company has included a deferred pension debit in working capital. This asset represents the cumulative effect of the Company's net pension income (negative pension expense) since 1994 as detailed in its response to SFHHA Interrogatory #42, which I have replicated as my Exh.__(LK-2).

Q. Should the deferred pension debit be included in cash working capital as a conceptual matter?

A. No. The inclusion of this asset in rate base would require ratepayers to pay a carrying charge on an asset representing the cumulative effect of pension income amounts recognized and retained by FPL during the years 1994-2001. The benefits of the pension income during those years was not provided to ratepayers in the form of rate reductions. Instead, the rates in effect during those years, but for the limited reductions due to the 1999 Rate Agreement, reflected the recovery from ratepayers of positive pension expense based upon the test year levels in Docket No. 830465-EI. Thus, the elimination of the pension expense and the recognition of pension income were "savings" benefits retained by the Company's shareholder, FPL Group. As such, any carrying costs on the deferred pension debit amount accumulated through 2001,

1 assuming there are any, should be attributed to FPL and its shareholder, and not to
2 ratepayers.

3
4 **Q. To the extent that pension income actually is flowed through to ratepayers, is it**
5 **appropriate to reflect the related deferred pension debit in rate base?**

6
7 **A.** Yes. In the test year, the Company has reflected pension income in operating income.
8 Thus, the average balance of the test year pension income should be reflected in rate
9 base.

10
11 **Q. Have you quantified the effect of removing the deferred pension debit from rate**
12 **base?**

13
14 **A.** Yes. The removal of the deferred pension debit from rate base for the 1994-2001
15 period results in a revenue requirement reduction of \$62.873 million, excluding the
16 offsetting deferred tax effect reflected in the overall return applied to rate base.

V. STORM DAMAGE EXPENSE, RESERVE, AND FUNDING

1
2 **Q. Please describe the Company's request for storm damage expense and funding**
3 **treatment.**

4
5 A. The Company has requested an increase in storm damage expense from the currently
6 authorized level of \$20.3 million to \$50.3 million in conjunction with its request for an
7 increase in the reserve level from \$234 million to a target of \$500 million. The
8 Company has funded the storm damage reserve, which is managed by an FPL Group
9 affiliate. As such, the large amount of reserve balance has not been utilized to reduce
10 rate base in the Company's filing, unlike the Company's other reserve balances that are
11 not funded and instead are utilized to reduce rate base.

12
13 **Q. If the storm damage reserve balance is not utilized to reduce rate base, then how**
14 **are ratepayers compensated for the use of their money?**

15
16 A. Unfortunately, the Company's filing reflects no compensation to ratepayers for the use
17 of their money. There not only is no rate base reduction, there also is no reduction in
18 the requested \$50.3 million annual expense to reflect earnings on the trust fund the
19 Company has established.

1

2 **Q. Under the traditional regulatory cost recovery model, are ratepayers**
3 **compensated for their money either through a return offset on trust fund**
4 **earnings or through a rate base reduction?**

5

6 **A. Yes. The failure to reflect an earnings offset of any sort to the requested accrual is**
7 unlike the return (earnings) offset recognized in the quantifications of pension expense,
8 postretirement benefits other than pensions expense, and decommissioning expense, all
9 of which accumulate amounts in dedicated trust funds similar to the funded reserve
10 approach employed by FPL for storm damage expense. Other advances by ratepayers
11 not included in trust funds are reflected as rate base reductions, including accumulated
12 deferred income taxes.

13

14 **Q. Should the Commission increase the storm damage expense amount?**

15

16 **A. No. First, increasing the storm damage expense will only exacerbate the disconnect**
17 between expense accruals and actual costs. By virtue of the fact that there is already a
18 substantial storm reserve balance, the Company has been provided excessive storm
19 damage expense recovery in prior years. Expense accruals have exceeded actual costs.

20

21 Second, the Commission should reject the Company's conclusory rationale that it is
22 necessary to prepay storm damage costs in anticipation of a possible catastrophic loss
23 exceeding the existing reserve level, and allow FPL to deprive ratepayers of time

1 value of their substantial funds. In effect, this rationale is no different than if the
2 Company had requested that ratepayers prepay the costs of the various generating plant
3 repowerings in which it is engaged. While such prepayments may result in lower
4 financing costs for FPL, they result in higher costs to ratepayers through current rates
5 and intergenerational inequities.

6
7 In fact, the inequity of the intergenerational affect is driven home by information FPL
8 produced in response to SFHHA in discovery. FPL's response to SFHHA
9 Interrogatory No. 123 shows that for FPL's Southeastern region, the number of years
10 between expected occurrences of hurricanes ranges from a low of 16 years for
11 hurricanes at the SSI 3 level to 250 years for hurricanes at the SSI 5 level. For FPL's
12 western region, the number of years between expected occurrences of hurricanes
13 ranges from a low of 30 years for SSI 1 hurricanes to over 500 years for SSI 5
14 hurricanes. For FPL's Northeastern region, the number of years between expected
15 occurrences of hurricanes ranges from a low of 36 years for SSI 1 hurricanes to 500
16 years for SSI 5 hurricanes. FPL's interrogatory response providing this information is
17 reproduced as my Exh. ____ (LK- 3). Thus, the information FPL provided shows an
18 expectation that if FPL's proposal is approved, today's ratepayers will be paying for
19 storm damages that may not be suffered for generations to come.

20
21 **Q. But what are the expected annual damages for hurricanes at each of the storm**
22 **intensity levels (i.e., SSI 1 through SSI 5)?**
23

1 A. FPL has no analysis on that issue. *See* Exh. ____ (LK- 4) (FPL Interrogatory Response
2 No. 124).

3 **Q. Are there other reasons why the requested increase in the storm fund should be**
4 **rejected?**

5
6 A. Yes. The request for the additional \$30 million in storm fund amounts seems to ignore
7 federal and state funds available in the event of natural disasters and catastrophic
8 losses. Such funds would serve to reduce the costs associated with catastrophic losses.

9
10 Additionally, there is no indication that the Company could not finance and
11 subsequently recover from ratepayers any costs related to a catastrophic loss above and
12 beyond existing reserve levels and government emergency assistance. To the contrary,
13 the Company does have plans in place to finance such costs if such a catastrophic loss
14 should occur. In addition, the Company historically has been able to recover its storm
15 damages costs from ratepayers, even if the reserve temporarily is depleted or negative.

16
17 Further, the Company's request fails to incorporate earnings on the trust fund and is
18 overstated for that reason alone. The Commission should incorporate earnings on the
19 trust fund in order to determine the net accrual necessary. For example, if the
20 Commission believes that a \$40 million annual accrual is appropriate, then that amount
21 should be reduced for the earnings on the trust fund. At a 10% rate of return, applied
22 to the existing \$234 million balance, the net expense requirement would be only \$17
23 million (\$40 million less \$23 million).

1
2 **Q. Is the Company's approach to fund the storm damage reserve the most economic**
3 **from the perspective of the ratepayers?**

4
5 A. No. First, the earnings of the trust fund apparently inure to the benefit of the
6 Company, not ratepayers. Although the earnings on the trust fund are added to the
7 trust fund balance, the existing and proposed expense accruals have not been reduced
8 for trust fund earnings.

9
10 Second, the trust fund earnings historically have been significantly below the
11 Company's last authorized and requested rates of return. In other words, ratepayers
12 would be far better off if the Company utilized these prepayments to invest in plant
13 and equipment by displacing other required financing and reflected the prepayments as
14 a reduction to rate base similar to the Company's other reserves. The trust fund has
15 averaged an after tax return of only 4.5% over the last 5 years compared to its last
16 authorized rate of return of 10.40% and its test year MFR rate of return in this
17 proceeding of 8.97%. The average return earned by the Company on the storm damage
18 trust fund over the last 5 years is detailed in the Company's response to SFHHA
19 Interrogatory # IV-38, a copy of which I have replicated as my Exh.__(LK-5) along
20 with my computations of the average return over the last 5 years.

1

2 **Q. What would be the impact if the trust fund had earned an after tax rate of return**
3 **comparable to that reflected in the MFR filing in this proceeding rather than the**
4 **4.5% it actually earned?**

5

6 **A. The trust fund balance would be in excess of \$300 million for the test year, compared**
7 **to the existing \$234 million balance cited by the Company in its testimony.**

8

9 **Q. What would the trust fund's balance be three years from now if that MFR-level**
10 **return continued along with the historic pattern of withdrawals?**

11

12 **A. Nearly \$400 million.**

13

14 **Q. What is your recommendation regarding the Company's funding of the storm**
15 **damage reserve?**

16

17 **A. I recommend that the Commission reflect the storm damage reserve as a rate base**
18 **reduction in the same manner as it reflects other reserve amounts representing**
19 **prepayments by ratepayers. This is the least cost financing option for ratepayers. If the**
20 **Company dissolves the trust fund, then presumably it could utilize the funds to**
21 **displace existing or future financing consistent with its overall rate of return**
22 **requirements.**

1

2 **Q. Should the Commission ensure that ratepayers are provided a return on their**
3 **money provided to the Company for storm damage expenses in advance of the**
4 **Company's payments for such expenses, regardless of the level of storm damage**
5 **expense authorized by the Commission in this proceeding?**

6

7 **A. Yes. I recommend that the Commission reflect the return effects directly by utilizing**
8 the reserve balance as a reduction to rate base. Alternatively, the Commission could
9 reflect the return as a reduction to the expense accrual that it otherwise finds to be
10 appropriate.

11

12 **Q. Have you quantified the effect of your recommendations on storm damage**
13 **expense, reserve, and funding?**

14

15 **A. Yes. The effects of my recommendations are to reduce the revenue requirement by**
16 \$61.414 million. The revenue requirement effect includes a reduction in storm damage
17 expense of \$30.000 million, the increase sought by the Company, and reflects a rate
18 base reduction for the Company's \$234 million reserve balance.

19

VI. OPERATION AND MAINTENANCE EXPENSE

Q. Please describe the increase in O&M expense sought by the Company in this proceeding.

A. The Company's revenue requirement projection for 2002 includes an increase of \$123.879 million (jurisdictional) in O&M expense for the test year over the MFR estimate of \$1,021.911 million (jurisdictional) for 2001. The increase is \$30.000 million less once the Company's requested increase in storm damage expense is removed. Nevertheless, the increase sought by the Company exceeds 12.12% including the increase to storm damage expense and 9.19% excluding the increase to storm damage expense.

Q. How does the Company's request compare to the actual growth in O&M expense in prior years?

A. The Company's request is excessive compared to its actual experience. The following table provides a history of the Company's O&M expenses and the annual percentage increase or decrease.

**FLORIDA POWER & LIGHT COMPANY
NON-FUEL O&M EXPENSE**

	<u>\$Million</u>	<u>% Change</u>
1995	1,138	na
1996	1,127	-0.99%
1997	1,132	0.44%
1998	1,163	2.74%
1999	1,089	-6.36%
2000	1,062	-2.48%
Average % Change		-1.33%

In addition to reducing its O&M expense in absolute dollars, the Company has reduced its O&M expense on a cents per kWh basis for the last 11 consecutive years, a fact that it cites in support of its claim that it is focused on controlling its costs and improving its efficiencies.

Q. Historically, how does the Company's actual O&M expense compare to its budget amounts?

A. Historically, the Company's actual O&M expense has been less than its budget amounts. In 2000, the Company's actual O&M expense was \$999 million compared to budget (plan) of \$1,034 million. In 1999, the Company's actual O&M expense was \$1,026 million compared to budget of \$1,072 million. In 1998, the Company's O&M expense was \$1,088 million compared to budget of \$1,090 million. The Company provided these comparisons in response to SFHHA Interrogatory # V-57, which I have replicated as my Exh. ____ (LK- 6).

1

2 **Q. Did the Company revise its O&M expense downward in conjunction with its**
3 **revision downward of revenues?**

4

5 A. No. Instead of a reduction in O&M compared to the Company's budget for 2002,
6 relied upon for its initial MFR filing, the Company claimed an increase in O&M of
7 \$22.640 million when it subsequently revised certain MFR schedules.

8

9 Once again, the failure to reduce downward its O&M expense is a complete disconnect
10 from reality, not only based upon FPL's history, but also based upon business
11 requirements in the unregulated world. First, FPL is focused on reducing its O&M
12 expense per kWh, a statistic it cites in public forums as evidence of its excellent
13 management. If projected sales are reduced and O&M expense is not, then the
14 projected O&M expense per kWh will rise compared to the 11 prior years of
15 reductions.

16

17 Second, FPL should not be held to a lower standard of cost control in response to
18 projected lower sales, but rather to a higher standard. It is only logical that if revenues
19 are lower for purposes of the rate filing compared to the Company's budget, then it
20 also should be required to reflect commensurate reductions in its O&M expense for
21 purposes of the rate filing compared to its budget.

22

1 **Q. Please respond to the claim by Company witness Mr. Shearman that the**
2 **Company will not be able to sustain its enviable historic reductions in O&M**
3 **expense into 2002 and 2003 due to “inflation, aging assets, customer growth, and**
4 **load growth.**

5
6 **A. There is not a shred of logical support for such an assertion. First, inflation currently is**
7 nearly nonexistent. Second, the Company’s capital expenditures for new and
8 replacement plant approximate 15% of its asset base every year. This is evidence of
9 relatively new, and more likely, lower maintenance plant. Some of those capital
10 expenditures undoubtedly were incurred to reduce O&M expense and are reflected in
11 rate base. Ratepayers should be provided the full benefit of the related expense
12 reductions.

13
14 Third, customer growth and load growth obviously overlap quite a bit. As noted
15 earlier, to the extent that such growth is projected to be lower, as reflected in the
16 Company’s revised revenue forecast, then O&M expense should have been reduced as
17 well, not increased. Finally, it should be noted that the Company voluntarily
18 determined to increase its reserve margin from the Commission’s mandated 15% to
19 20% and to accelerate its scheduled capacity additions and repowerings. Thus, at least
20 to some extent, the related O&M expense also is discretionary. Presumably, the
21 Company should recover such discretionary increased costs through higher interchange
22 revenues, particularly given its projection of little or no growth in its customer base.

23

1 Finally, the FPL Group 2000 Annual Report to Shareholders directly rebuts the
2 substance of Mr. Shearman's arguments in favor of higher O&M expense growth. The
3 Company cites its ability actually to reduce O&M expense in the face of customer and
4 load growth and describes the addition of significant generation capacity (new plant
5 compared to the aging plant cited by Mr. Shearman). The relevant excerpt from that
6 Annual Report follows.

7 Since 1990, when the company was restructured, FPL has driven
8 down costs while achieving continuous improvements in virtually
9 every area of its operations. At the same time, it has taken steps to
10 meet the sharply increasing energy demands of a service area that
11 continues to grow at a rapid pace.

12
13 FPL's customer base grew by 2.5% in 2000 to more than 3.8
14 million. More new customers, 92,000, were added than in any year
15 since 1990. In addition, energy usage per customer increased by
16 nearly 2% over the previous year.

17
18 In 2000, FPL reduced its operations and maintenance costs per
19 kilowatt-hour for the tenth consecutive year. Since 1990, O&M
20 costs have declined 40% - from 1.82 cents per kilowatt-hour to 1.09
21 cents. During this time the company added more than 700,000 new
22 customer accounts and increased its generating capacity by 24%.

23
24 FPL's cost reduction efforts have resulted in a more efficient and
25 productive organization and enabled the company to hold down the
26 price of its electricity to below the national average.

27
28 FPL continues to achieve major improvements in such critical
29 success areas as plant performance, electric reliability, and customer
30 service.

31
32 Thus, it appears that FPL does not share Mr. Shearman's views regarding its ability to
33 reduce O&M expense given the same factors cited in his testimony.

1 **Q. Did Mr. Shearman investigate whether FPL's efforts to reduce costs during 1999-**
2 **2001 caused costs to increase following 2001?**

3
4 A. No. Apparently he made no effort to determine whether that had occurred. Of course,
5 during the 1999-2001 period, FPL might retain all of the savings resulting from
6 deferring costs. Mr. Shearman also did not investigate how FPL's profits may have
7 been increased during 1999-2001, due to such cost reductions. See my Exh.____ (LK-
8 7).

9
10 In contrast, FPL had no assurance that it would retain any cost savings following
11 March 31, 2002, and any costs that could be deferred into that period could help justify
12 higher rates.

13
14 **Q. Are Mr. Shearman's comparisons meaningful?**

15
16 A. Not really. He ignored many different variables between utilities that tend to affect
17 costs and thus he is unable to make apples to apples comparisons.

18
19 **Q. Did his various exhibits take into account varying ages of generation fleets, which**
20 **would affect outage levels and O&M cost levels?**

21
22 A. No. Exh.____ (LK-8).
23

1 **Q. Did his various exhibits take into account the differences in types of generators,**
2 **since (for instance) different types of nuclear reactors have different maintenance**
3 **issues?**

4
5 A. No. Exh.____ (LK-9).
6

7 **Q. What reasonably can be concluded regarding the Company's projected growth in**
8 **O&M expense given its historic O&M expense growth and its public statements**
9 **regarding controlling costs and improving efficiencies?**

10
11 A. The Company's O&M expense projected for the test year is excessive. The
12 Commission should look to history as a guide to the reasonable and necessary level of
13 O&M expense and the Company's ability to control the actual level of expense
14 compared to the amounts reflected in its filing in this proceeding.
15

16 **Q. What is your recommendation?**
17

18 A. Absent more definitive data or a more conclusive showing of actual O&M levels, I
19 recommend that the Commission limit the growth in O&M expense for the test year to
20 at most half of the Company's projection, excluding the increase due to storm damage
21 expense. This recommendation reflects a 4.60% increase in O&M expense compared
22 to 2001, excluding the proposed increase in storm damage expense, still an
23 exceptionally high level compared to recent experience of negative growth.

VII. CAPITALIZATION STRUCTURE

Q. Please describe the Company's proposed capitalization structure.

A. The Company has proposed the following capitalization structure computed on a financial statement basis, excluding accumulated deferred income taxes, which are included in capitalization only as a ratemaking convention in lieu of subtraction from rate base.

FLORIDA POWER & LIGHT COMPANY CAPITALIZATION STRUCTURE		
	<u>\$Million</u>	<u>%Capital</u>
Long Term Debt	2,809	32.7%
Short Term Debt	52	0.6%
Preferred Stock	227	2.6%
Common Equity	<u>5,505</u>	<u>64.1%</u>
Total	8,593	100.0%

Q. Is the level of common equity included in the Company's proposed capitalization structure excessive?

A. Yes. It is excessive for an A rated utility coupled with the lower level of risk experienced by FPL as a regulated utility compared to FPL Group and its unregulated business activities. FPL's bond ratings and investor risk perceptions are strongly influenced by FPL Group's extensive unregulated business activities. This higher level of unregulated risk results in higher costs that should not burden FPL's ratepayers.

1 Q. What has Standard and Poor's stated regarding the FPL Group unregulated
2 activities risk and the effect on FPL?

3
4 A. First, S&P rates utility debt on the basis of the parent company's consolidated
5 fundamentals, not solely on the utility company's business and financial risk. S&P
6 stated in a recent commentary posted on its website the following:

7
8 [U]tilities that merge with other companies and invest outside the
9 traditional regulated businesses will be rated on the basis of the
10 qualitative and quantitative fundamentals of their consolidated
11 entities.

12
13 Second, prior to the downrating of FPL from AA- to A, S&P issued its rationale for the
14 its negative creditwatch and stated the following in the wake of the announcement of
15 the proposed FPL-Entergy merger.

16 The ratings on Florida Power & Light Co., the utility operating
17 company of FPL Group Inc., are on CreditWatch with negative
18 implications, reflecting FPL Group's announced merger with lower-
19 rated Entergy Corp.

20
21 * * * *

22 Despite the utility's stellar financials, the consolidated entity is
23 challenged to improve consolidated credit-protection measures as
24 the firm expands its portfolio of independent power projects.

25
26 Florida Power & Light's corporate credit rating is based on the
27 financial and business risk profile analysis of the consolidated
28 enterprise, derived by analyzing each individual core-operating unit.
29 There are insufficient prescriptive regulatory measures to restrict
30 cash flow from the utility to the parent.

31
32 Florida Power & Light's first mortgage bonds are rated the same as
33 the firm's corporate credit rating.
34

1 In reviewing FPL and its affiliates, Standard & Poor's noted FPL's "buoyant cash
2 flow" and "strong business profile" "tempered by the growing portfolio of higher-risk
3 nonregulated investments, principally in independent power projects"
4 Particularly, in reviewing the growth plans of the FPL Group, the report stated that
5 "Standard & Poor's views the business risk profile of independent power producers at
6 the high end of the risk spectrum" FPL Group's energy marketing and trading
7 operation was characterized as a "high-risk business segment."

8
9 More recently, Standard and Poor's reiterated its concerns regarding the effect of the
10 unregulated business activities on the entire FPL Group "family" of companies, which
11 includes FPL.

12 The IPP financing strategy and the amount of risk mitigation
13 undertaken will be important to sustaining current ratings for the
14 entire FPL family . . . Resolution of the CreditWatch listing is
15 expected in the near future. Notably, FPL Group's commitment to
16 expand its nonregulated businesses, including its portfolio of IPPs,
17 will challenge the firm to strengthen consolidated credit-protection
18 measures to maintain the existing ratings profile.
19

20 The Credit Watch listing was resolved in September 2001, and the effects of FPL's
21 nonutility spending were clear.

22 Credit quality for Florida Power & Light Co., the utility operating
23 company of FPL Group Inc., reflects the unit's steady and reliable
24 cash flow attributes, tempered by the parent's growing portfolio of
25 higher-risk, nonregulated investments, principally in independent
26 power projects.
27

28 Current ratings for FPL Group and its affiliates incorporate
29 increasing business risk for the consolidated enterprise attributable
30 to the growing nonregulated independent power producer (IPP)

1 portfolio, regulatory challenges in Florida, an aggressive financing
2 plan, and declining credit protection measures . . .

3
4 Florida Power & Light's credit profile reflects an above-average
5 business position . . .

6
7 Parent FPL Group's portfolio of nonregulated electric power
8 generation holdings is in several regions, . . . The potential for an
9 economic downturn and the possibility of additional capacity
10 coming on line in some of the regions that FPL Group has targeted
11 highlight some of Standard & Poor's concerns . . . about this high-
12 risk business line.

13
14 Similarly, Moody's also tied its concerns regarding the debt ratings for the FPL Group
15 companies, including FPL, to the risk associated with FPL Group's unregulated
16 business activities.

17
18 [G]rowth strategies implemented by FPL Energy, an unregulated
19 subsidiary of FPL Group, also increase pressure on the consolidated
20 company's credit profile. FPL Energy intends to finance and build
21 6,000 mw of unregulated merchant generation by 2003. While most
22 of these projects will eventually be financed with non-recourse debt,
23 FPL Group Capital provides interim financing. The parent company
24 guarantees the debt issued by FPL Capital which in turn creates
25 pressure for all the rated entities within the consolidated group.
26

27 **Q. What are the Standard and Poor's debt to total capitalization guidelines for an A**
28 **rating on utility debt?**

29
30 **A. Standard and Poor's guidelines for an A rating and a company business risk profile of**
31 **4 (FPL's rankings) range from 46% to 50% debt to total capitalization.**

1 **Q. What is the average capitalization structure of the comparison group of A rated**
2 **utilities utilized by Company witness Dr. Avera to develop his return on equity**
3 **recommendation?**

4
5 **A. Dr. Avera computed the following average capitalization structure based upon his**
6 **comparison group as of September 30, 2001.**

7

1

CAPITALIZATION STRUCTURE DR. AVERA COMPARISON GROUP	
Short Term Debt	2.1%
Long Term Debt	42.5%
Preferred Securities	5.4%
Common Equity	<u>50.0%</u>
Total	100.0%

2

3

4

5

6

7

8

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10

11

12

Dr. Avera noted that the individual common equity ratios embodied in the average ranged from a low of 42.9% to a high of 59.9%.

Q. What is Mr. Avera's opinion of credit-rating agencies, such as those quoted above?

A. "[P]erhaps the most objective guide to a utility's overall investment is its bond rating" assigned by "independent rating agencies." (Avera Direct, p. 47: 11-13).

1 **Q. Is that similar to the opinion held by FPL's Mr. Dewhurst?**

2

3 **A. Yes. "Rating agencies, acting as independent risk assessors on behalf of investors**
4 **generally, are an important source of evidence" of investors' sentiments. Dewhurst**
5 **Direct Testimony, p. 19:18-22.**

6 **Q. What do the rating agencies think will be the outcome of this proceeding?**

7

8 **A. "[T]he market is expecting a rate cut" according to Justin McCann of Standard &**
9 **Poor's (Miami Herald, February 24, 2002).**

10

11 **Q. Should ratepayers be required to subsidize FPL Group's nonregulated business**
12 **activities through a capitalization structure that reflects a "bulked-up" common**
13 **equity level so that FPL Group, on a consolidated basis, had adequate credit**
14 **protection?**

15

16 **A. No. The unregulated business entities should provide the consolidated entity the**
17 **necessary credit protections. It is inappropriate for the ratepayers to subsidize the FPL**
18 **Group unregulated business activities through an excessive common equity level.**

19

20 **Q. Are there other factors that should be taken into account when assessing the**
21 **appropriate level of equity capitalization for FPL?**

22 **A. Yes. Approximately 45% of FPL's total jurisdictional revenues are recovered by**
23 **trackers, rather than through base rates.**

1

2 **Q. Is there another factor warranting consideration?**

3

4 A. Yes. The timing, and perhaps to a lesser extent the scope, of FPL's present ambitious
5 construction program are in part within FPL's control. FPL's determination to agree to
6 a 20% (in lieu of a 15%) reserve margin, and its desire to build its own generation
7 capacity, obviously influence its capital needs.

8

9 **Q. What is your recommendation regarding the appropriate capitalization structure**
10 **for FPL as a regulated utility?**

11

12 A. I recommend the Commission adopt a capitalization structure of no more than 50%
13 common equity and up to 50% debt, computed on a financial statement basis,
14 excluding accumulated deferred income taxes and other Commission ratemaking
15 adjustments. Once the determination is made regarding an appropriate financial
16 statement capitalization structure, the Commission should adjust that structure for its
17 various historic ratemaking adjustments, the largest of which is accumulated deferred
18 income taxes.

19

20 **Q. Have you quantified the return effects of the accumulated deferred income tax**
21 **adjustments to capitalization and capitalization structure necessitated by your**
22 **rate base adjustments?**

23

1 A. Yes. The return effects of the prior rate base recommendations, excluding the effects
2 of any further modifications to the capitalization structure quantified below, results in
3 an increase to the revenue requirement of \$34.140 million
4

5 **Q. Have you quantified the effect of your recommendation on the capitalization**
6 **structure for FPL?**
7

8 A. Yes. This recommendation results in a reduction to the revenue requirement of
9 \$173.545 million. I have quantified this reduction to the revenue requirement as the
10 difference between the Company's proposed grossed up overall rate of return and that
11 corresponding to my recommendation (based upon the averages cited in Dr. Avera's
12 testimony) times the rate base adjusted for the effects of the other adjustments that I
13 have proposed. This adjustment is incremental to the previous adjustment for the
14 return effects of the accumulated deferred income taxes.
15

VIII. SANFORD REPOWERING

1

2 Q. Please describe the Sanford Repowering Project (the "Sanford Project" or the
3 "project").

4

5 A. The Sanford Project involved *inter alia* converting two previously oil- and gas-fired
6 units, at the Sanford site, to gas fired combined cycle units.

7

8 Q. Did FPL originally project that the project would be in-service by 2002?

9

10 A. No. Originally FPL had scheduled the Sanford Project to be in-service after 2002.

11

12 Q. How did FPL evaluate the alternatives to repowering Sanford?

13

14 A. When we asked that question, FPL initially provided a generic description of criteria it
15 claims it evaluated in determining whether to repower Sanford. Subsequently, FPL
16 provided additional information.

17

18 Q. Did FPL compare the Sanford Repowering Project to a specific independent
19 entity's project?

20

21 A. No.

1 **Q. Did FPL's review of the Sanford Repowering Project use the cost which will be**
2 **incurred to complete the project?**

3
4 **A. No.**

5
6 **Q. Did FPL conduct an RFP or open season to solicit bids in lieu of building its own**
7 **capacity?**

8
9 **A. No.**

10

11 **Q. Mr. Waters discusses the Sanford Project in the context of the 1998 Ten Year Site**
12 **Plan. What were the estimates of cost in 1998 for repowering Sanford Project?**

13

14 **A. FPL furnished a March 1998 "Summary of Alternatives" involving repowering**
15 **Sanford in 2002 or 2004. The analysis, stated in 1998 dollars, estimated that**
16 **repowering two units would cost \$441 million (including \$48 million for transmission**
17 **expansion).**

18

19 **Moreover, the analysis showed that net per-KW costs would be reduced if re-powering**
20 **was completed in 2004 rather than 2002. (Exh.____ (LK -10)).**

21

1

2 **Q. Has the Sanford Project been successful from the FPL perspective?**

3

4 **A. Evidently not. Even using FPL's "Sanford Repowering Success Criteria," which**
5 **reflects the \$622 million estimate, the project is \$75 million over budget. (Exh.____**
6 **LK-14)).**

7

8

1 Q. Can you identify major causes of the cost overrun?

2 CONFIDENTIAL INFORMATION FOLLOWS

3

4 [Confidential Information Intentionally Omitted]

5

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11 [Confidential Information Intentionally Omitted]

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26

27 **END OF CONFIDENTIAL INFORMATION**

28

1

2 **Q. Has FPL changed when it anticipated incurring charges in connection with**
3 **Sanford?**

4

5 A. Yes. In a document dated May 9, 2001 (Exh. ____ (LK-15)), FPL compared its
6 "current approved 5-year forecasts" of expenditures for the Sanford (and Fort Myers)
7 project(s) to its most up-to-date forecast. The comparison showed that the May 2001
8 forecast projects an increase in 2002 expenditures of \$15 million, over what the then-
9 current approved 5-year forecast had estimated, with reductions in expenditures shown
10 in pre- and post-2002 periods.

11

12 **Q. Prior to the construction report described above, and following changes in its**
13 **original schedule, when did FPL project that the Sanford Project would be placed**
14 **in-service?**

15

16 A. In 2002.

17

18 **Q. What is the impact of FPL's post-September 11, 2001 estimates of consumption**
19 **upon the need for capacity?**

20

21 A. FPL's "2002 Alt. Forecast," a post-September 11, 2001 projection, reflects a decrease
22 of about 3% in the projected 2005 total consumption by jurisdictional customers

1 compared to the pre-September 11, 2002 FPL 2002 Budget Forecast (Exh.____ LK-
2 16)).

3 **IX. AFFILIATE RELATIONSHIPS**
4

5 **Q. Do you have concerns with FPL's interrelations with its affiliates?**

6
7 **A.** Yes. FPL is engaged in numerous transactions with its affiliates, including those
8 involving millions of dollars but which are not subject to a written contract. *See*
9 Exh.____ (LK-17). Unfortunately, FPL has resisted providing responsive information.
10 Therefore, I reserve the opportunity to supplement this testimony when FPL has
11 furnished adequate data.

12
13 **Q. Does this complete your direct testimony?**

14
15 **A.** For now.

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

**Re: Review of the Retail Rates of)
 Florida Power & Light Company)** **Docket No. 001148-EI**

**EXHIBITS
OF
LANE KOLLEN**

**ON BEHALF OF
SOUTH FLORIDA HOSPITAL AND HEALTHCARE ASSOCIATION**

**J. KENNEDY AND ASSOCIATES, INC.
ROSWELL, GEORGIA**

February 2002

RESUME OF LANE KOLLEN, VICE PRESIDENT

EDUCATION

University of Toledo, BBA
Accounting

University of Toledo, MBA

PROFESSIONAL CERTIFICATIONS

Certified Public Accountant (CPA)

Certified Management Accountant (CMA)

PROFESSIONAL AFFILIATIONS

American Institute of Certified Public Accountants

Georgia Society of Certified Public Accountants

Institute of Management Accountants

More than twenty-five years of utility industry experience in the financial, rate, tax, and planning areas. Specialization in revenue requirements analyses, taxes, evaluation of rate and financial impacts of traditional and nontraditional ratemaking, utility mergers/acquisition diversification. Expertise in proprietary and nonproprietary software systems used by utilities for budgeting, rate case support and strategic and financial planning.

J. KENNEDY AND ASSOCIATES, INC.

R. 11373

RESUME OF LANE KOLLEN, VICE PRESIDENT

EXPERIENCE

1986 to

Present:

J. Kennedy and Associates, Inc.: Vice President and Principal. Responsible for utility stranded cost analysis, revenue requirements analysis, cash flow projections and solvency, financial and cash effects of traditional and nontraditional ratemaking, and research, speaking and writing on the effects of tax law changes. Testimony before Connecticut, Florida, Georgia, Indiana, Louisiana, Kentucky, Maine, Minnesota, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia state regulatory commissions and the Federal Energy Regulatory Commission.

1983 to

1986:

Energy Management Associates: Lead Consultant.

Consulting in the areas of strategic and financial planning, traditional and nontraditional ratemaking, rate case support and testimony, diversification and generation expansion planning. Directed consulting and software development projects utilizing PROSCREEN II and ACUMEN proprietary software products. Utilized ACUMEN detailed corporate simulation system, PROSCREEN II strategic planning system and other custom developed software to support utility rate case filings including test year revenue requirements, rate base, operating income and pro-forma adjustments. Also utilized these software products for revenue simulation, budget preparation and cost-of-service analyses.

1976 to

1983:

The Toledo Edison Company: Planning Supervisor.

Responsible for financial planning activities including generation expansion planning, capital and expense budgeting, evaluation of tax law changes, rate case strategy and support and computerized financial modeling using proprietary and nonproprietary software products. Directed the modeling and evaluation of planning alternatives including:

Rate phase-ins.

Construction project cancellations and write-offs.

Construction project delays.

Capacity swaps.

Financing alternatives.

Competitive pricing for off-system sales.

Sale/leasebacks.

RESUME OF LANE KOLLEN, VICE PRESIDENT

CLIENTS SERVED

Industrial Companies and Groups

Air Products and Chemicals, Inc.	Lehigh Valley Power Committee
Airco Industrial Gases	Maryland Industrial Group
Alcan Aluminum	Multiple Intervenors (New York)
Armco Advanced Materials Co.	National Southwire
Armco Steel	North Carolina Industrial
Bethlehem Steel	Energy Consumers
Connecticut Industrial Energy Consumers	Occidental Chemical Corporation
ELCON	Ohio Industrial Energy Consumers
Enron Gas Pipeline Company	Ohio Manufacturers Association
Florida Industrial Power Users Group	Philadelphia Area Industrial Energy
General Electric Company	Users Group
GPU Industrial Intervenors	PSI Industrial Group
Indiana Industrial Group	Smith Cogeneration
Industrial Consumers for	Taconite Intervenors (Minnesota)
Fair Utility Rates - Indiana	West Penn Power Industrial Intervenors
Industrial Energy Consumers - Ohio	West Virginia Energy Users Group
Kentucky Industrial Utility Consumers	Westvaco Corporation
Kimberly-Clark	

Regulatory Commissions and Government Agencies

Georgia Public Service Commission Staff
Kentucky Attorney General's Office, Division of Consumer Protection
Louisiana Public Service Commission Staff
Maine Office of Public Advocate
New York State Energy Office
Office of Public Utility Counsel (Texas)

J. KENNEDY AND ASSOCIATES, INC.

R. 11375

RESUME OF LANE KOLLEN, VICE PRESIDENT

Utilities

Allegheny Power System
Atlantic City Electric Company
Carolina Power & Light Company
Cleveland Electric Illuminating Company
Delmarva Power & Light Company
Duquesne Light Company
General Public Utilities
Georgia Power Company
Middle South Services
Nevada Power Company
Niagara Mohawk Power Corporation

Otter Tail Power Company
Pacific Gas & Electric Company
Public Service Electric & Gas
Public Service of Oklahoma
Rochester Gas and Electric
Savannah Electric & Power Company
Seminole Electric Cooperative
Southern California Edison
Talquin Electric Cooperative
Tampa Electric
Texas Utilities
Toledo Edison Company

**Expert Testimony Appearances
of
Lane Kollen
As of January 2002**

Date	Case	Jurisdic ^t	Party	Utility	Subject
10/86	U-17282 Interim	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements financial solvency.
11/86	U-17282 Interim Rebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements financial solvency.
12/86	9613	KY	Attorney General Div. of Consumer Protection	Big Rivers Electric Corp.	Revenue requirements accounting adjustments financial workout plan.
1/87	U-17282 Interim	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Cash revenue requirements, financial solvency.
3/87	General Order 236	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Tax Reform Act of 1986.
4/87	U-17282 Prudence	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1, economic analyses, cancellation studies
4/87	M-100 Sub 113	NC	North Carolina Industrial Energy Consumers	Duke Power Co.	Tax Reform Act of 1986.
5/87	86-524-E-	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Revenue requirements. Tax Reform Act of 1986.
5/87	U-17282 Case In Chief	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, financial solvency.
7/87	U-17282 Case In Chief Surrebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements River Bend 1 phase-in plan, financial solvency
7/87	U-17282 Prudence Surrebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1, economic analyses, cancellation studies.

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Date	Case	Jurisdic.	Party	Utility	Subject
7/87	86-524 E-SC Rebuttal	WV	West Virginia Energy Users' Group	Monongahela Power Co.	Revenue requirements, Tax Reform Act of 1986.
8/87	9885	KY	Attorney General Div. of Consumer Protection	Big Rivers Electric Corp.	Financial workout plan.
8/87	E-015/GR- 87-223	MN	Taconite Intervenors	Minnesota Power & Light Co.	Revenue requirements, O&M expense, Tax Reform Act of 1986.
10/87	870220-EI	FL	Occidental Chemical Corp.	Florida Power Corp.	Revenue requirements, O&M expense, Tax Reform Act of 1986.
11/87	87-07-01	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	Tax Reform Act of 1986.
1/88	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, River Bend 1 phase-in plan, rate of return
2/88	9934	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Economics of Trimble County completion.
2/88	10064	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Revenue requirements, O&M expense, capital structure, excess deferred income taxes.
5/88	10217	KY	Alcan Aluminum National Southwire	Big Rivers Electric Corp.	Financial workout plan. Corp.
5/88	M-87017 -1C001	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Nonutility generator deferred cost recovery.
5/88	M-87017 -2C005	PA	GPU Industrial Intervenors	Pennsylvania Electric Co.	Nonutility generator deferred cost recovery.
6/88	U-17282	LA 19th Judicial District Ct.	Louisiana Public Service Commission Staff	Gulf States Utilities	Prudence of River Bend 1 economic analyses, cancellation studies, financial modeling.

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Date	Case	Jurisdic.	Party	Utility	Subject
7/88	M-87017- -1C001 Rebuttal	PA	GPU Industrial Intervenors	Metropolitan Edison Co.	Nonutility generator deferred cost recovery, SFAS No. 92
7/88	M-87017- -2C005 Rebuttal	PA	GPU Industrial Intervenors	Pennsylvania Electric Co.	Nonutility generator deferred cost recovery, SFAS No. 92
9/88	88-05-25	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	Excess deferred taxes, O&M expenses.
9/88	10064 Rehearing	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Premature retirements, interest expense.
10/88	88-170- EL-AIR	OH	Ohio Industrial Energy Consumers	Cleveland Electric Illuminating Co.	Revenue requirements, phase-in, excess deferred taxes, O&M expenses, financial considerations, working capital.
10/88	88-171- EL-AIR	OH	Ohio Industrial Energy Consumers	Toledo Edison Co.	Revenue requirements, phase-in, excess deferred taxes, O&M expenses, financial Considerations, working capital.
10/88	8800 355-EI	FL	Florida Industrial Power Users' Group	Florida Power & Light Co.	Tax Reform Act of 1986, tax expenses, O&M expenses, pension expense (SFAS No. 87).
10/88	3780-U	GA	Georgia Public Service Commission Staff	Atlanta Gas Light Co	Pension expense (SFAS No. 87).
11/88	U-17282 Remand	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Rate base exclusion plan (SFAS No. 71)
12/88	U-17970	LA	Louisiana Public Service Commission Staff	AT&T Communications of South Central States	Pension expense (SFAS No. 87).
12/88	U-17949 Rebuttal	LA	Louisiana Public Service Commission Staff	South Central Bell	Compensated absences (SFAS No. 43), pension expense (SFAS No. 87), Part 32, income tax normalization.

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Date	Case	Jurisdic.	Party	Utility	Subject
2/89	U-17282 Phase II	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, phase-in of River Bend 1, recovery of canceled plant.
6/89	881602-EU 890326-EU	FL	Talquin Electric Cooperative	Talquin/City of Tallahassee	Economic analyses, incremental cost-of-service, average customer rates.
7/89	U-17970	LA	Louisiana Public Service Commission Staff	AT&T Communications of South Central States	Pension expense (SFAS No. 87), compensated absences (SFAS No. 43), Part 32.
8/89	8555	TX	Occidental Chemical Corp.	Houston Lighting & Power Co.	Cancellation cost recovery, tax expense, revenue requirements.
8/89	3840-U	GA	Georgia Public Service Commission Staff	Georgia Power Co.	Promotional practices, advertising, economic development.
9/89	U-17282 Phase II Detailed	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements, detailed investigation.
10/89	8880	TX	Enron Gas Pipeline	Texas-New Mexico Power Co.	Deferred accounting treatment, sale/leaseback.
10/89	8928	TX	Enron Gas Pipeline	Texas-New Mexico Power Co.	Revenue requirements, imputed capital structure, cash working capital.
10/89	R-891364	PA	Philadelphia Area Industrial Energy Users Group	Philadelphia Electric Co.	Revenue requirements.
11/89 12/89	R-891364 Surrebuttal (2 Filings)	PA	Philadelphia Area Industrial Energy Users Group	Philadelphia Electric Co.	Revenue requirements, sale/leaseback.
1/90	U-17282 Phase II Detailed Rebuttal	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements detailed investigation.

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Date	Case	Jurisdct.	Party	Utility	Subject
1/90	U-17282 Phase III	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Phase-in of River Bend 1, deregulated asset plan.
3/90	890319-EI	FL	Florida Industrial Power Users Group	Florida Power & Light Co.	O&M expenses, Tax Reform Act of 1986.
4/90	890319-EI Rebuttal	FL	Florida Industrial Power Users Group	Florida Power & Light Co.	O&M expenses, Tax Reform Act of 1986.
4/90	U-17282	LA 19 th Judicial District Ct	Louisiana Public Service Commission Staff	Gulf States Utilities	Fuel clause, gain on sale of utility assets.
9/90	90-158	KY	Kentucky Industrial Utility Customers	Louisville Gas & Electric Co.	Revenue requirements, post-test year additions, forecasted test year.
12/90	U-17282 Phase IV	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Revenue requirements.
3/91	29327, et. al.	NY	Multiple Intervenors	Niagara Mohawk Power Corp.	Incentive regulation.
5/91	9945	TX	Office of Public Utility Counsel of Texas	El Paso Electric Co.	Financial modeling, economic analyses, prudence of Palo Verde 3.
9/91	P-910511 P-910512	PA	Allegheny Ludlum Corp., Armco Advanced Materials Co., The West Penn Power Industrial Users' Group	West Penn Power Co.	Recovery of CAAA costs, least cost financing
9/91	91-231 -E-NC	WV	West Virginia Energy Users Group	Monongahela Power Co.	Recovery of CAAA costs, least cost financing.
11/91	U-17282	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Asset impairment, deregulated asset plan, revenue require- ments.

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Date	Case	Jurisdicth	Party	Utility	Subject
12/91	91-410-EL-AIR	OH	Air Products and Chemicals, Inc., Armco Steel Co., General Electric Co., Industrial Energy Consumers	Cincinnati Gas & Electric Co.	Revenue requirements, phase-in plan.
12/91	10200	TX	Office of Public Utility Counsel of Texas	Texas-New Mexico Power Co.	Financial integrity, strategic planning, declined business affiliations.
5/92	910890-EI	FL	Occidental Chemical Corp.	Florida Power Corp.	Revenue requirements, O&M expense, pension expense, OPEB expense, fossil dismantling, nuclear decommissioning.
8/92	R-00922314	PA	GPU Industrial Intervenors	Metropolitan Edison Co	Incentive regulation, performance rewards, purchased power risk, OPEB expense.
9/92	92-043	KY	Kentucky Industrial Utility Consumers	Generic Proceeding	OPEB expense.
9/92	920324-EI	FL	Florida Industrial Power Users' Group	Tampa Electric Co.	OPEB expense.
9/92	39348	IN	Indiana Industrial Group	Generic Proceeding	OPEB expense
9/92	910840-PU	FL	Florida Industrial Power Users' Group	Generic Proceeding	OPEB expense.
9/92	39314	IN	Industrial Consumers for Fair Utility Rates	Indiana Michigan Power Co	OPEB expense.
11/92	U-19904	LA	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy Corp.	Merger.
11/92	8649	MD	Westvaco Corp., Eastalco Aluminum Co	Potomac Edison Co.	OPEB expense
11/92	92-1715-AU-COI	OH	Ohio Manufacturers Association	Generic Proceeding	OPEB expense.

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Date	Case	Jurisdicth	Party	Utility	Subject
12/92	R-00922378	PA	Armco Advanced Materials Co., The WPP Industrial Intervenor	West Penn Power Co.	Incentive regulation, performance rewards, purchased power nsk, OPEB expense.
12/92	U-19949	LA	Louisiana Public Service Commission Staff	South Central Bell	Affiliate transactions, cost allocations, merger.
12/92	R-00922479	PA	Philadelphia Area Industrial Energy Users' Group	Philadelphia Electric Co	OPEB expense.
1/93	8487	MD	Maryland Industrial Group	Baltimore Gas & Electric Co., Bethlehem Steel Corp.	OPEB expense, deferred fuel, CWIP in rate base
1/93	39498	IN	PSI Industrial Group	PSI Energy, Inc.	Refunds due to over-collection of taxes on Marble Hill cancellation.
3/93	92-11-11	CT	Connecticut Industrial Energy Consumers	Connecticut Light & Power Co.	OPEB expense.
3/93	U-19904 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy	Merger. Corp
3/93	93-01 EL-EFC	OH	Ohio Industrial Energy Consumers	Ohio Power Co.	Affiliate transactions, fuel.
3/93	EC92-21000 ER92-806-000	FERC	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy	Merger. Corp.
4/93	92-1464- EL-AIR	OH	Air Products Armco Steel Industrial Energy Consumers	Cincinnati Gas & Electric Co.	Revenue requirements, phase-in plan.
4/93	EC92-21000 ER92-806-000 (Rebuttal)	FERC	Louisiana Public Service Commission Staff	Gulf States Utilities/Entergy	Merger Corp.

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Date	Case	Jurisdicit.	Party	Utility	Subject
9/93	93-113	KY	Kentucky Industrial Utility Customers	Kentucky Utilities	Fuel clause and coal contract refund.
9/93	92-490, 92-490A, 90-360-C	KY	Kentucky Industrial Utility Customers and Kentucky Attorney General	Big Rivers Electric Corp.	Disallowances and restitution for excessive fuel costs, illegal and improper payments, recovery of mine closure costs.
10/93	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	Revenue requirements, debt restructuring agreement, River Bend cost recovery.
1/94	U-20647	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	Audit and investigation into fuel clause costs.
4/94	U-20647 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities	Nuclear and fossil unit performance, fuel costs, fuel clause principles and guidelines.
5/94	U-20178	LA	Louisiana Public Service Commission Staff	Louisiana Power & Light Co.	Planning and quantification issues of least cost integrated resource plan.
9/94	U-19904 Initial Post- Merger Earnings Review	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	River Bend phase-in plan, deregulated asset plan, capital structure, other revenue requirement issues.
9/94	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policies, exclusion of River Bend, other revenue requirement issues.
10/94	3905-U	GA	Georgia Public Service Commission Staff	Southern Bell Telephone Co	Incentive rate plan, earnings review.
10/94	5258-U	GA	Georgia Public Service Commission Staff	Southern Bell Telephone Co.	Alternative regulation, cost allocation.

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Date	Case	Jurisdic	Party	Utility	Subject
11/94	U-19904 Initial Post-Merger Earnings Review (Rebuttal)	LA	Louisiana Public Service Commission Staff	Gulf States Utilities Co.	River Bend phase-in plan, deregulated asset plan, capital structure, other revenue requirement issues.
11/94	U-17735 (Rebuttal)	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policy, exclusion of River Bend, other revenue requirement issues.
4/95	R-00943271	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Revenue requirements. Fossil dismantling, nuclear decommissioning.
6/95	3905-U	GA	Georgia Public Service Commission	Southern Bell Telephone Co.	Incentive regulation, affiliate transactions, revenue requirements, rate refund.
6/95	U-19904 (Direct)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	Gas, coal, nuclear fuel costs, contract prudence, base/fuel realignment.
10/95	95-02614	TN	Tennessee Office of the Attorney General Consumer Advocate	BellSouth Telecommunications, Inc.	Affiliate transactions.
10/95	U-21485 (Direct)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	Nuclear O&M, River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues.
11/95	U-19904 (Surrebuttal)	LA	Louisiana Public Service Commission	Gulf States Utilities Co. Division	Gas, coal, nuclear fuel costs, contract prudence, base/fuel realignment.
11/95	U-21485 (Supplemental Direct)	LA	Louisiana Public Service Commission	Gulf States Utilities Co.	Nuclear O&M, River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues.
12/95	U-21485 (Surrebuttal)				

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Date	Case	Jurisdct.	Party	Utility	Subject
1/96	95-299- EL-AIR 95-300- EL-AIR	OH	Industrial Energy Consumers	The Toledo Edison Co. The Cleveland Electric Illuminating Co.	Competition, asset writeoffs and revaluation, O&M expense, other revenue requirement issues.
2/96	PUC No. 14967	TX	Office of Public Utility Counsel	Central Power & Light	Nuclear decommissioning.
5/96	95-485-LCS	NM	City of Las Cruces	El Paso Electric Co.	Stranded cost recovery, municipalization.
7/96	8725	MD	The Maryland Industrial Group and Redland Genstar, Inc.	Baltimore Gas & Electric Co., Potomac Electric Power Co. and Constellation Energy Corp.	Merger savings, tracking mechanism, earnings sharing plan, revenue requirement issues.
9/96 11/96	U-22092 U-22092 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	River Bend phase-in plan, base/fuel realignment, NOL and AltMin asset deferred taxes, other revenue requirement issues, allocation of regulated/nonregulated costs.
10/96	96-327	KY	Kentucky Industrial Utility Customers, Inc.	Big Rivers Electric Corp.	Environmental surcharge recoverable costs
2/97	R-00973877	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Stranded cost recovery, regulatory assets and liabilities, intangible transition charge, revenue requirements.
3/97	96-489	KY	Kentucky Industrial Utility Customers, Inc.	Kentucky Power Co.	Environmental surcharge recoverable costs, system agreements, allowance inventory, jurisdictional allocation.
6/97	TO-97-397	MO	MCI Telecommunications Corp., Inc., MCI metro Access Transmission Services, Inc.	Southwestern Bell Telephone Co.	Price cap regulation, revenue requirements, rate of return.

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Date	Case	Jurisdct.	Party	Utility	Subject
6/97	R-00973953	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
7/97	R-00973954	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
7/97	U-22092	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Depreciation rates and methodologies, River Bend phase-in plan.
8/97	97-300	KY	Kentucky Industrial Utility Customers, Inc.	Louisville Gas & Electric Co. and Kentucky Utilities Co.	Merger policy, cost savings, surcredit sharing mechanism, revenue requirements, rate of return
8/97	R-00973954 (Surrebuttal)	PA	PP&L Industrial Customer Alliance	Pennsylvania Power & Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
10/97	97-204	KY	Alcan Aluminum Corp. Southwire Co.	Big Rivers Electric Corp	Restructuring, revenue requirements, reasonableness
10/97	R-974008	PA	Metropolitan Edison Industrial Users Group	Metropolitan Edison Co	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements.
10/97	R-974009	PA	Penelec Industrial Customer Alliance	Pennsylvania Electric Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements.
11/97	97-204 (Rebuttal)	KY	Alcan Aluminum Corp. Southwire Co	Big Rivers Electric Corp.	Restructuring, revenue requirements, reasonableness of rates, cost allocation.

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Date	Case	JurisdicT.	Party	Utility	Subject
11/97	U-22491	LA	Louisiana Public Service Commission	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.
11/97	R-00973953 (Surrebuttal)	PA	Philadelphia Area Industrial Energy Users Group	PECO Energy Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning.
11/97	R-973981	PA	West Penn Power Industrial Intervenors	West Penn Power Co	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, fossil decommissioning, revenue requirements, securitization.
11/97	R-974104	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements, securitization.
12/97	R-973981 (Surrebuttal)	PA	West Penn Power Industrial Intervenors	West Penn Power Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, fossil decommissioning, revenue requirements.
12/97	R-974104 (Surrebuttal)	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Restructuring, deregulation, stranded costs, regulatory assets, liabilities, nuclear and fossil decommissioning, revenue requirements, securitization.
1/98	U-22491 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, other revenue requirement issues.
2/98	8774	MD	Westvaco	Potomac Edison Co.	Merger of Duquesne, AE, customer safeguards, savings sharing.

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Date	Case	Jurisdic.	Party	Utility	Subject
3/98	U-22092 (Allocated Stranded Cost Issues)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Restructuring, stranded costs, regulatory assets, securitization, regulatory mitigation.
3/98	8390-U	GA	Georgia Natural Gas Group, Georgia Textile Manufacturers Assoc	Atlanta Gas Light Co.	Restructuring, unbundling, stranded costs, incentive regulation, revenue requirements.
3/98	U-22092 (Allocated Stranded Cost Issues) (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Restructuring, stranded costs, regulatory assets, securitization, regulatory mitigation.
10/98	97-596	ME	Maine Office of the Public Advocate	Bangor Hydro- Electric Co.	Restructuring, unbundling, stranded costs, T&D revenue requirements.
10/98	9355-U	GA	Georgia Public Service Commission Adversary Staff	Georgia Power Co.	Affiliate transactions.
10/98	U-17735	LA	Louisiana Public Service Commission Staff	Cajun Electric Power Cooperative	G&T cooperative ratemaking policy, other revenue requirement issues.
11/98	U-23327	LA	Louisiana Public Service Commission Staff	SWEPCO, CSW and AEP	Merger policy, savings sharing mechanism, affiliate transaction conditions.
12/98	U-23358 (Direct)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
12/98	98-577	ME	Maine Office of Public Advocate	Maine Public Service Co.	Restructuring, unbundling, stranded cost, T&D revenue requirements.
1/99	98-10-07	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Stranded costs, investment tax credits, accumulated deferred income taxes, excess deferred income taxes.

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Date	Case	Jurisdiction	Party	Utility	Subject
3/99	U-23358 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
3/99	98-474	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co.	Revenue requirements, alternative forms of regulation.
3/99	98-426	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements, alternative forms of regulation.
3/99	99-082	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co.	Revenue requirements.
3/99	99-083	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements.
4/99	U-23358 (Supplemental Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
4/99	99-03-04	CT	Connecticut Industrial Energy Consumers mechanisms.	United Illuminating Co.	Regulatory assets and liabilities, stranded costs, recovery
4/99	99-02-05	CT	Connecticut Industrial Utility Customers mechanisms.	Connecticut Light and Power Co.	Regulatory assets and liabilities stranded costs, recovery
5/99	98-426 99-082 (Additional Direct)	KY	Kentucky Industrial Utility Customers	Louisville Gas and Electric Co.	Revenue requirements.
5/99	98-474 99-083 (Additional Direct)	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements.
5/99	98-426 98-474 (Response to Amended Applications)	KY	Kentucky Industrial Utility Customers Kentucky Utilities Co.	Louisville Gas and Electric Co. and Kentucky Utilities Co.	Alternative regulation.

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Date	Case	Jurisdiction	Party	Utility	Subject
6/99	97-596	ME	Maine Office of Public Advocate	Bangor Hydro-Electric Co.	Request for accounting order regarding electric industry restructuring costs.
6/99	U-23358	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Affiliate transactions, cost allocations.
7/99	99-03-35	CT	Connecticut Industrial Energy Consumers	United Illuminating Co.	Stranded costs, regulatory assets, tax effects of asset divestiture.
7/99	U-23327	LA	Louisiana Public Service Commission Staff	Southwestern Electric Power Co., Central and South West Corp, and American Electric Power Co.	Merger Settlement Stipulation.
7/99	97-596 (Surrebuttal)	ME	Maine Office of Public Advocate	Bangor Hydro-Electric Co.	Restructuring, unbundling, stranded cost, T&D revenue requirements.
7/99	98-0452-E-GI	WVa	West Virginia Energy Users Group	Monongahela Power, Potomac Edison, Appalachian Power, Wheeling Power	Regulatory assets and liabilities.
8/99	98-577 (Surrebuttal)	ME	Maine Office of Public Advocate	Maine Public Service Co	Restructuring, unbundling, stranded costs, T&D revenue requirements
8/99	98-426 99-082 (Rebuttal)	KY	Kentucky Industrial Utility Customers	Kentucky Utilities Co.	Revenue requirements.
8/99	98-474 98-083 (Rebuttal)	KY	Kentucky Industrial Utility Customers Kentucky Utilities Co	Louisville Gas and Electric Co. and	Alternative forms of regulation.
8/99	98-0452-E-GI (Rebuttal)	WVa	West Virginia Energy Users Group	Monongahela Power, Potomac Edison, Appalachian Power, Wheeling Power	Regulatory assets and liabilities.

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Date	Case	Jurisdic.	Party	Utility	Subject
10/99	U-24182 (Direct)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
11/99	21527	TX	Dallas-Ft.Worth Hospital Council and Coalition of Independent Colleges and Universities	TXU Electric	Restructuring, stranded costs, taxes, securitization.
11/99	U-23358 Surrebuttal Affiliate Transactions Review	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Service company affiliate transaction costs.
04/00	99-1212-EL-ETPOH 99-1213-EL-ATA 99-1214-EL-AAM		Greater Cleveland Growth Association	First Energy (Cleveland Electric Illuminating, Toledo Edison)	Historical review, stranded costs, regulatory assets, liabilities.
01/00	U-24182 (Surrebuttal)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, affiliate transactions, tax issues, and other revenue requirement issues.
05/00	U-24182 (Supplemental Direct)	LA	Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Affiliate expense proforma adjustments
05/00	A-110550F0147 PA		Philadelphia Area Industrial Energy Users Group	PECO Energy	Merger between PECO and Unicom.
07/00	22344	TX	The Dallas-Fort Worth Hospital Council and The Coalition of Independent Colleges and Universities	Statewide Genenc Proceeding	Escalation of O&M expenses for unbundled T&D revenue requirements In projected test year.
08/00	U-24064	LA	Louisiana Public Service Commission Staff	CLECO	Affiliate transaction pricing ratemaking principles, subsidization of nonregulated affiliates, ratemaking adjustments.

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As of January 2002**

Date	Case	Jurisdiction	Party	Utility	Subject
11/00	PUC 22350 SOAH 473-00-1015	TX	The Dallas-Ft. Worth Hospital Council and The Coalition of Independent Colleges And Universities	TXU Electric Co	Restructuring, T&D revenue requirements, mitigation, regulatory assets and liabilities
10/00	R-00974104 (Affidavit)	PA	Duquesne Industrial Intervenors	Duquesne Light Co.	Final accounting for stranded costs, including treatment of auction proceeds, taxes, capital costs, switchback costs, and excess pension funding.
11/00	P-00001837 R-00974008 P-00001838 R-00974009		Metropolitan Edison Industrial Users Group Penelec Industrial Customer Alliance	Metropolitan Edison Co. Pennsylvania Electric Co.	Final accounting for stranded costs, including treatment of auction proceeds, taxes, regulatory assets and liabilities, transaction costs
12/00	U-21453, LA U-20925, U-22092 (Surrebuttal)		Louisiana Public Service Commission Staff	SWEPCO	Stranded costs, regulatory assets.
01/01	U-24993 (Direct)		Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.	Allocation of regulated and nonregulated costs, tax issues, and other revenue requirement issues.
01/01	U-21453, U-20925 and U-22092 (Subdocket B) (Surrebuttal)		Louisiana Public Service Commission Staff	Entergy Gulf States, Inc.,	Industry restructuring, business separation plan, organization structure, hold harmless conditions, financing.
01/01	Case No. KY 2000-386		Kentucky Industrial Utility Customers, Inc	Louisville Gas & Electric Co.	Recovery of environmental costs, surcharge mechanism
01/01	Case No. KY 2000-439		Kentucky Industrial Utility Customers, Inc.	Kentucky Utilities Co.	Recovery of environmental costs, surcharge mechanism.
02/01	A-110300F0095 PA A-110400F0040		Met-Ed Industrial Users Group Penelec Industrial Customer Alliance	GPU, Inc. FirstEnergy	Merger, savings, reliability.

J. KENNEDY AND ASSOCIATES, INC.

R. 11393

**Expert Testimony Appearances
of
Lane Kollen
As of January 2002**

Date	Case	Jurisdic.	Party	Utility	Subject
03/01	P-00001860 P-00001861	PA	Met-Ed Industrial Users Group Penelec Industrial Customer Alliance	Metropolitan Edison Co. and Pennsylvania Electric Co.	Recovery of costs due to provider of last resort obligation.
04 /01	U-21453, U-20925, U-22092 (Subdocket B) Settlement Term Sheet	LA	Louisiana Public Public Service Comm. Staff	Entergy Gulf States, Inc.	Business separation plan: settlement agreement on overall plan structure.
04 /01	U-21453, U-20925, U-22092 (Subdocket B) Contested Issues	LA	Louisiana Public Public Service Comm Staff	Entergy Gulf States, Inc.	Business separation plan: agreements, hold harmless conditions, separations methodology.
05 /01	U-21453, U-20925, U-22092 (Subdocket B) Contested Issues Transmission and Distribution (Rebuttal)	LA	Louisiana Public Public Service Comm Staff	Entergy Gulf States, Inc.	Business separation plan: agreements, hold harmless conditions, Separations methodology.
07/01	U-21453, U-20925, U-22092 (Subdocket B) Transmission and Distribution Term Sheet	LA	Louisiana Public Public Service Comm Staff	Entergy Gulf States, Inc.	Business separation plan: settlement agreement on T&D issues, agreements necessary to implement T&D separations, hold harmless conditions, separations methodology.
10/01	14000-U	GA	Georgia Public Service Commission Adversary Staff	Georgia Power Co.	Review requirements, Rate Plan, fuel clause recovery.
11/01	14311-U	GA	Georgia Public Service Commission Adversary Staff	Atlanta Gas Light Co.	Revenue requirements

J. KENNEDY AND ASSOCIATES, INC.

R. 11394

Florida Power & Light Company
Docket No. 001148-EI
SFHA Fourth Set Interrogatories
Interrogatory No. 42
Page 1 of 1

Q.

Refer to MFR Schedule B-26 page 1 lines 15-27 regarding the adoption and changes in accounting for pension expense. Please provide a schedule detailing the history of the prepaid pension asset included in account 186.190, including any offsetting accumulated deferred income tax amounts by FERC account. For each year, commencing with 1993, cited as the year in which this change was implemented, through 2002, provide the beginning balance of the prepaid pension asset, increases or decreases for the year, and the ending balance. Reconcile the increases or decreases for each year to the Company's pension expense for that same year.

A.

See attached schedule.

South Florida Hospital Healthcare
Interrogatory #42
History of Acct. 186.190 - Prepaid Pension Asset
Years ending 1993 through 2002 (1)

	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002 (1)
Beginning balance	19,542	(329)	11,637	25,069	43,354	112,110	173,331	262,799	371,180	473,902
Pension expense	14,592	11,966	18,726	18,285	68,757	9,626	89,469	108,381	101,895	109,798
Adjustments	(34,463) (2)		(5,294) (2)			(8,406) (2)				
Ending balance	(329)	11,637	25,069	43,354	112,110	1 3,331	262,799	371,180	473,075	583,700
Deferred Tax Balances Accounts 282 and 283	127	(4,469)	(9,670)	(16,724)	(43,247)	(16,882)	(101,375)	(143,162)	(182,466)	(225,142)

Notes:

- (1) - Actual amounts for 1993 through 2001 and projected last year amounts for 2002.
- (2) - These amounts relate to special retirement plans resulting from FPL's cost reduction programs

Docket No. 001148-EI
L. Kallen Exhibit No. 1 (L.K-2)
History of Account 186.190 - Prepaid Pension Asset
Page 2 of 2

Florida Power & Light Company
Docket No. 001148-EI
SFHA Eighth Set of Interrogatories
Interrogatory No. 123
Page 1 of 1

Q.

Re: Testimony and Exhibits of Steven E. Harris

With respect to hurricanes at levels SS 1 through SS 5, please state the probability of each occurring during the year. Please also state the number of years between expected occurrences at each hurricane level.

A.

Refer to Document SPH-1 Section 11, Reference 1. The following table of likelihood of landfall is provided:

Table 2
ANNUAL PROBABILITY OF LANDFALLING STORMS

Region	SSI 1	SSI 2	SSI 3	SSI 4	SSI 5
Western (Manatee through Collier)	3.3%	2.0%	2.1%	0.4%	negligible
Southeastern (Dade/Broward/Palm Beach)	4.8%	5.3%	6.3%	2.4%	0.4%
Northeastern (Martin and north)	2.8%	2.8%	1.6%	0.5%	0.2%

The recurrence interval for the storm landfall probabilities provided in Table 2 above is:

Annual Probability	Recurrence Interval (years)
0.2%	500
0.4%	250
0.5%	200
1.6%	63
2.0%	50
2.1%	48
2.4%	42
2.8%	36
3.3%	30
4.8%	21
6.3%	16

Florida Power & Light Company
Docket No. 001148-EI
SFHA Eighth Set of Interrogatories
Interrogatory No. 124
Page 1 of 1

Q.

Re: Testimony and Exhibits of Steven E. Harris

Separately for hurricane levels SS 1 through SS 5, please calculate exceedence probabilities in the form of Table 9-2.

A.

These analyses were not performed as part of the study.

Florida Power & Light Company
Docket No. 001148-EI
SFHA Fourth Set Interrogatories
Interrogatory No. 38
Page 1 of 1

Q.

Please provide a 6 year history of the storm damage fund reserve, consisting of actual amounts for 1997-2001 and projected amounts for the 2002 test year. Separately show for each year the beginning balance of the reserve, expense accruals, write-offs (charges), and ending balance of the reserve. Provide the requested amounts on a jurisdictional basis.

A.

	(1)	(2)	(3)	(7)	(8)	(9)
	Contributions/ Expense	Fund earnings	Storm Costs charged to Reserve	Ending Reserve Balance	Mark-to- Market adjustment (FAS 115)	Adjusted Ending Reserve Balance
Actual						
1996				221,244	1,333	222,577
1997	20,300	10,840	1,117	251,267	1,177	252,445
1998	20,300	12,459	27,554	256,472	2,116	258,588
1999	20,300	9,451	67,824	218,399	(2,820)	215,579
2000	20,300	9,075	17,566	230,208	(1,076)	229,132
2001	20,300	11,388	27,208	234,687	640	235,328
	<i>avg</i>	<i>16,143</i>				
Projected						
000 (actual)				230,208	(1,076)	229,132
2001 (a)	20,300	9,596	(b)	260,104	1,399	261,504
2002	50,300	10,221	(b)	320,625	1,399	322,025

(a) five months actual, seven months projected

(b) the number and costs of storms are too unpredictable to predict.

See MFR C-9 (account 924) for the jurisdictional factor applicable to the annual expense accrual. See MFR B-7 for the jurisdictional factor applicable to the reserve balance. Note- the storm and property damage reserve is a funded reserve which is excluded from rate base (see MFR B-4).

Florida Power & Light Company
Docket No. 001148-EI
SFHA Fifth Set of Interrogatories
Interrogatory No. 57
Page 1 of 1

Q.
Please compare your operating budget by year established in advance for fiscal years 1998, 1999, 2000 and 2001 with the actual results of operations experienced during such respective periods.

A.

	(\$ in millions)							
	<u>1998</u>		<u>1999</u>		<u>2000</u>		<u>2001</u>	
Expenses:	<u>Actual</u>	<u>Plan</u>	<u>Actual</u>	<u>Plan</u>	<u>Actual</u>	<u>Plan</u>	<u>Actual</u>	<u>Plan</u>
Fuel and Purchased Power	\$ 2,175	\$ 2,244	\$ 2,232	\$ 2,191	\$ 2,511	\$ 2,253	\$ [REDACTED]	\$ [REDACTED]
Base O&M	1,088	1,090	1,026	1,072	999	1,034	[REDACTED]	[REDACTED]
Depreciation and Amortization	1,249	1,078	989	1,263	975	924	[REDACTED]	[REDACTED]
Taxes	952	945	959	928	975	968	[REDACTED]	[REDACTED]
Other, primarily interest	286	293	233	246	256	255	[REDACTED]	[REDACTED]
	<u>\$ 5,750</u>	<u>\$ 5,650</u>	<u>\$ 5,439</u>	<u>\$ 5,700</u>	<u>\$ 5,716</u>	<u>\$ 5,434</u>	<u>\$ [REDACTED]</u>	<u>\$ [REDACTED]</u>

(Actuals - Babka)
(Plan - Beilhart)

The information requested for 2001 is confidential and will be made available for inspection at FPL's General Offices at 9250 West Flager Street, Miami, Florida 33174 during normal business hours pursuant to a mutually satisfactory confidentiality agreement or protective order.

Q.

Re: Testimony and Exhibits of John G. Shearman

Please quantify in Mr. Shearman's opinion the amount of increase in net profits that FPL enjoyed during the period 1999- April 1, 2002 as a result of FPL's lower costs and efficiency enhancements. Please provide your workpapers and supporting documents and describe how you went about calculating the amount.

A.

FPL objects to this interrogatory as it seeks analyses that have not been performed, or data that have not been collected with the preparation of the FPL witnesses' testimony.

NEW PLANT ENTRY PRICE

Docket No. 001148-EI
L. Kollen Exhibit No. ____ (LK-10)
Sanford Comparisons
Page 1 of 17

Alternatives:		RePower PFM Unit 1&2	3
I. CONSTRUCTION (1999) 1997 \$			Escalation
A	Permit/Eng/Feas (months)	24	Notes:
B	Construction Phase (months)	30	1 \$4MM Sale Price minus \$518k Site Demo and \$1 6MM Book Value (1996 \$)
C	Project Total (months)	54	2 \$150MM to be issued in 1997 PC's
			3 All other numbers have not been escalated
D	Land	(\$1,881)	1
E	Materials	\$281,802	2
F	Labor & Equipment	\$75,450	
G	Total Direct Cost	\$355,671	
H	Construction Indirects	\$0	
I	Licensing	\$5,000	
J	Project Support	\$5,000	
K	Contingency	\$20,000	
L	Total Indirect Cost	\$30,000	
M	\$/KW Net Summer	\$275	
N	\$/KW Net Winter	\$256	
O	Fuel Expansion	\$6,000	
P	Transmission Expansion	\$23,000	
Q	Railroad & Cars	\$0	
R	Total Other Cost	\$29,000	
S	Grand Total Cost	\$414,671	
T	\$/KW Net Summer	\$296	
U	\$/KW Net Winter	\$275	
II. PLANT CHARACTERISTICS			
V	Net Sum 95F Capability (mw)	1,400	
W	Net 75F Capability (mw)	1,508	
	Net 55F Capability (mw)	1,541	
X	Heat Rate b/w 95F 100% Load H-HV	6,858	
Y	Heat Rate b/w 75F 100% Load H-HV	6,815	
Y1	Heat Rate b/w 75F 75% Load H-HV	6,990	
Y2	Heat Rate b/w 75F 50% Load H-HV	7,630	
Z	Heat Rate b/w 55F 100% Load H-HV	6,783	
AA	Equip. Avail. %	90%	
BB	Sched Outage (wks/yr)	1.5	
CC	Equip Forced Outage	1.0%	
III. OPERATION			
DD	Total O&M (\$/mm/yr)	\$4	
EE	(remove \$MM for existing fleet cost for Repower only)		
GG	Capital Replace (\$/mm/yr)	\$5	
IV. SPENDING CURVES			
HH	Year 6	\$0	
II	Year 5	\$0	
JJ	Year 4	\$1,658	
KK	Year 3	\$2,902	
LL	Year 2	\$183,180	
MM	Year 1	\$216,821	
V. NOTES:			
NN	Fuel	New NRC Natural Gas	
OO	AFUDC Adder		
PP	Equipment	"7F" → "6CT & 6-1830	
QQ	Cooling	Intake/Discharge	
RR	SCR's	no	

1998

New Generation Alternatives				
	16	17	18	19
Alternatives:	400 PC	400 PC	200 SC	500 CC - F↔
	Greenfield	Martin	Exist Site - "G"	Greenfield
I. CONSTRUCTION (1000) 1998 \$				
A Permit/Eng/Fab (months)	36	30	9	24
S Construction Phase (months)	30	27	6	24
OS Project Total (months)	66	57	15	48
D Land	\$ 1,210	\$ -	\$ -	\$ 1,200
E Materials	\$ 226,000	\$ 224,000	\$ 42,069	\$ 120,000
F Labor & Equipment	\$ 104,000	\$ 104,000	\$ 6,333	\$ 44,000
G Total Direct Cost	\$ 331,210	\$ 328,000	\$ 48,402	\$ 165,200
H Construction Indirects	\$ -	\$ -	\$ -	\$ -
I Licensing	\$ 6,000	\$ 5,500	\$ 400	\$ 3,200
J Project Support	\$ 4,220	\$ 3,616	\$ 1,090	\$ 2,700
K Contingency	\$ 10,557	\$ 8,799	\$ 249	\$ 6,844
L Total Indirect Cost	\$ 20,877	\$ 17,915	\$ 1,739	\$ 12,744
M \$/KW Net Summer	\$ 880	\$ 865	\$ 251	\$ 374
N \$/KW Net Winter	\$ 873	\$ 860	\$ 218	\$ 346
O Fuel Expansion	\$ -	\$ -	\$ 200	\$ 4,000
P Transmission Expansion	\$ -	\$ -	\$ -	\$ 13,000
Q Railroad & Cars	\$ 8,000	\$ 8,000	\$ -	\$ -
R Total Other Cost	\$ 8,000	\$ 8,000	\$ 200	\$ 17,000
SS Grand Total Cost	\$ 360,087	\$ 353,915	\$ 50,341	\$ 194,944
MT \$/KW Net Summer	\$ 900	\$ 885	\$ 252	\$ 380
U \$/KW Net Winter	\$ 896	\$ 880	\$ 219	\$ 379
II. PLANT CHARACTERISTICS				
V Net Summer 95F Capability (mw)	400	400	200	476
v Net Win 75F Capability (mw)	401	401	215	496
W Net Win 59F Capability (mw)	402	402	230	514
X Heat Rate btu/kwh 75F 100% Load FFW	9,500	9,500	9,955	6,874
Y Heat Rate btu/kwh 75F 75%	9,600	9,600	10,801	6,816
Z Heat Rate btu/kwh 75F 50%	10,100	10,100	12,344	6,773
AA Equiv. Avail. %	97%	97%	98%	96%
BB Sched Outage (wks/yr)	1.0	1.0	0.5	1.5
CC Equiv Forced Outage	1.0%	1.0%	1.0%	1.0%
III. OPERATION				
DD Total O&M (mm/yr)	1.32	1.05	0.51	0.51
EE Fixed (\$/kw - yr)	18.66	13.96	0.51	4.31
FF Variable (excl. fuel) (\$/mwh)	1.603	1.603	0.295	0.405
GG Capital Replace (\$mm/yr)	3.00	3.00	1.50	2.30
IV. SPENDING CURVES				
HH Year 6	\$ 1,440	\$ -	\$ -	\$ -
II Year 5	\$ 7,202	\$ 6,724	\$ -	\$ -
JJ Year 4	\$ 8,642	\$ 8,494	\$ -	\$ 780
KK Year 3	\$ 61,935	\$ 62,643	\$ -	\$ 1,365
LL Year 2	\$ 37,944	\$ 96,265	\$ 17,620	\$ 90,844
MM Year 1	\$ 182,624	\$ 179,799	\$ 32,722	\$ 101,956
V. NOTES:	\$ 360,087	\$ 353,915	\$ 50,341	\$ 194,944
NN Net MW change (summer)	+400 New NSC	+400 New NSC	+200 New NSC	+476 New NSC
OO Equipment Available Equipment	PC	PC	1-CT - "G"	7F↔ 2CT & 2HRSG & 1ST
PP Cooling	Tower	Reservoir	Existing	Tower
QQ SCR's	yes - SCR	yes - SCR	no	no
RR Back-Up Fuel Adder	\$ 3,000	\$ 3,000	\$ 2,500	\$ 3,500

IRP98R0.XL

3/98 4:24 PM

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R. 11406

**SUMMARY OF GENERATION ALTERNATIVES
COST AND COMPETITION TEAM
IRP 1998**

DOCKET NO. 001148-E1
L. Kollen Exhibit No. ____ (LK-10)
Sanford Comparisons
Page 3 of 17

New Generation Alternatives		8	10	11	12	13	14	15
Alternatives:		Repower	Repower	Repower	400 Ori	800 Ori	400 CFB	400 CFB
		PSN 3	PFM-1	PCU-5	Martin	Martin	Greenfield	Martin
I. CONSTRUCTION (1000) 1998 \$								
A	Permit/Eng/Fab (months)	24	30	30	30	30	33	30
B	Construction Phase (months)	21	24	21	30	30	30	27
C	Project Total (months)	45	54	51	60	60	63	57
D	Land	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,210	\$ -
E	Materials	\$ 95,151	\$ 100,735	\$ 45,934	\$ 202,000	\$ 400,000	\$ 224,210	\$ 224,210
F	Labor & Equipment	\$ 18,132	\$ 29,853	\$ 18,193	\$ 106,000	\$ 180,000	\$ 95,586	\$ 95,585
G	Total Direct Cost	\$ 113,283	\$ 130,588	\$ 64,127	\$ 308,000	\$ 580,000	\$ 321,006	\$ 319,795
H	Construction Indirects	\$ 2,973	\$ 3,265	\$ 1,603	\$ -	\$ -	\$ -	\$ -
I	Licensing	\$ 3,000	\$ 3,000	\$ 4,000	\$ 8,500	\$ 8,500	\$ 5,000	\$ 5,500
J	Project Support	\$ 5,830	\$ 4,000	\$ 4,000	\$ 3,548	\$ 3,836	\$ 4,100	\$ 3,608
K	Contingency	\$ 13,759	\$ 8,451	\$ 4,424	\$ 9,482	\$ 20,693	\$ 10,244	\$ 8,512
L	Total Indirect Cost	\$ 25,562	\$ 18,716	\$ 14,027	\$ 21,530	\$ 33,029	\$ 20,344	\$ 17,620
M	\$/KW Net Summer	\$ 503	\$ 541	\$ 662	\$ 824	\$ 766	\$ 853	\$ 844
N	\$/KW Net Winter	\$ 422	\$ 454	\$ 579	\$ 820	\$ 762	\$ 849	\$ 839
O	Fuel Expansion	\$ -	\$ 95,000	\$ -	\$ 16,000	\$ 16,000	\$ -	\$ -
P	Transmission Expansion	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,000	\$ 8,000
Q	Railroad & Cars	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8,000	\$ 8,000
R	Total Other Cost	\$ -	\$ 95,000	\$ -	\$ 16,000	\$ 16,000	\$ 8,000	\$ 8,000
S	Grand Total (1000)	\$ 138,845	\$ 244,304	\$ 78,154	\$ 345,530	\$ 629,029	\$ 349,350	\$ 345,416
T	\$/KW Net Summer	\$ 503	\$ 585	\$ 662	\$ 824	\$ 766	\$ 853	\$ 844
U	\$/KW Net Winter	\$ 422	\$ 474	\$ 579	\$ 860	\$ 782	\$ 869	\$ 859
II. PLANT CHARACTERISTICS								
V	Net Sum 95F Capability (mw)	276	276	108	400	800	400	400
V	Net Win 75F Capability (mw)	316	316	130	401	802	401	401
W	Net Win 59F Capability (mw)	329	329	135	402	804	402	402
X	Heat Rate btu/kwh 75F 100% Load HRV	7,579	7,579	7,570	9,583	9,583	9,580	9,580
Y	Heat Rate btu/kwh 75F 75%	7,619	7,619	7,820	10,004	10,004	9,700	9,700
Z	Heat Rate btu/kwh 75F 50%	7,429	7,429	8,580	10,384	10,384	10,200	10,200
AA	Equiv. Avail. %	96%	95%	95%	97%	97%	97%	97%
BB	Sched Outage (wks/yr)	1.3	1.6	1.8	1.0	1.0	1.0	1.0
CC	Equiv Forced Outage	1.5%	2.0%	2.0%	1.0%	1.0%	1.0%	1.0%
III. OPERATION								
DD	Total O&M (mm/yr)	2.84	2.97	2.22	9.33	15.29	11.25	9.87
EE	Fixed (\$/kw - yr)	5.37	5.58	9.92	10.62	6.89	15.40	10.70
FF	Variable (excl. fuel) (\$/mwh)	0.585	0.620	1.064	1.671	1.585	1.497	1.497
GG	Capital Replace (\$mm/yr)	2.10	2.10	1.00	2.00	3.00	2.00	2.00
IV. SPENDING CURVES								
HH	Year 6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,397	\$ -
II	Year 5	\$ -	\$ -	\$ -	\$ 5,874	\$ 10,694	\$ 6,987	\$ 5,872
JJ	Year 4	\$ 2,638	\$ 4,642	\$ 1,485	\$ 8,293	\$ 15,097	\$ 8,284	\$ 8,290
KK	Year 3	\$ 17,356	\$ 30,538	\$ 9,769	\$ 61,850	\$ 112,596	\$ 60,088	\$ 61,829
LL	Year 2	\$ 59,148	\$ 104,073	\$ 33,294	\$ 93,984	\$ 171,096	\$ 95,023	\$ 93,953
MM	Year 1	\$ 59,704	\$ 105,051	\$ 33,606	\$ 175,529	\$ 319,547	\$ 177,470	\$ 175,471
V. NOTES:		\$ 138,845	\$ 244,304	\$ 78,154	\$ 345,530	\$ 629,029	\$ 349,350	\$ 345,416
NN	Net MW change (summer)	+276	+276	+118	+400	+800	+400	+400
		From NSC	From NSC	From NSC	New NSC	New NSC	New NSC	New NSC
OO	Equipment Available							
	Equipment	"F"	"F"	V84.3	N/A	N/A	1CFB	1CFB
PP	Cooling	Existing	Existing	Existing	Reservoir	Reservoir	Tower	Reservoir
QQ	SCR's	no	no	no	no	no	yes - SNCR	yes - SNCR
RR	2000p.xls Adder	\$ 2,500	\$ 2,500	\$ 1,500	\$ 3,000	\$ 3,000	\$ 1,500	\$ 2,500

60005015

R. 11407

**SUMMARY OF GENERATION ALTERNATIVES
COST AND COMPETITION TEAM
IRP 1998**

DOCKET NO. 00-140-EL
L. Kollen Exhibit No. ____ (LK-10)
Sanford Comparisons
Page 4 of 17

New Generation Alternatives							
		1	1A	2	3	3A	4
Alternatives:		400 CC - ATS	400 CC - ATS	300 CC - G	400 CC - ATS	400 CC - ATS	300 CC - G
		Greenfield	Greenfield	Greenfield	Martin	Martin	Martin
I. CONSTRUCTION (1000) 1998 \$							
A	Permit/Eng/Fab (months)	30	30	30	20	20	20
B	Construction Phase (months)	22	22	22	19	19	19
C	Project Total (months)	52	52	52	39	39	39
D	Land	\$ 1,298	\$ 1,298	\$ 1,298	\$ -	\$ -	\$ -
E	Materials	\$ 125,000	\$ 125,000	\$ 88,747	\$ 123,000	\$ 122,000	\$ 88,747
F	Labor & Equipment	\$ 35,000	\$ 35,000	\$ 25,253	\$ 35,000	\$ 35,000	\$ 25,253
G	Total Direct Cost	\$ 161,298	\$ 161,298	\$ 115,298	\$ 158,000	\$ 158,000	\$ 114,000
H	Construction Indirects	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
I	Licensing	\$ 4,000	\$ 4,000	\$ 4,000	\$ 3,200	\$ 3,200	\$ 3,200
J	Project Support	\$ 3,476	\$ 3,476	\$ 3,476	\$ 2,700	\$ 2,700	\$ 2,700
K	Contingency	\$ 8,439	\$ 8,439	\$ 6,139	\$ 6,556	\$ 6,556	\$ 4,560
L	Total Indirect Cost	\$ 15,915	\$ 15,915	\$ 13,615	\$ 12,456	\$ 12,456	\$ 10,460
M	\$/KW Net Summer	\$ 423	\$ 423	\$ 416	\$ 407	\$ 407	\$ 402
N	\$/KW Net Winter	\$ 396	\$ 396	\$ 373	\$ 407	\$ 407	\$ 360
O	Fuel Expansion				\$ 12,000	\$ 12,000	\$ 10,000
P	Transmission Expansion						
Q	Railroad & Cars	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
R	Total Other Cost	\$ -	\$ -	\$ -	\$ 12,000	\$ 12,000	\$ 10,000
S	Grand Total Cost	\$ 177,213	\$ 177,213	\$ 128,913	\$ 182,456	\$ 182,456	\$ 134,460
T	\$/KW Net Summer	\$ 423	\$ 423	\$ 416	\$ 407	\$ 407	\$ 402
U	\$/KW Net Winter	\$ 396	\$ 396	\$ 373	\$ 407	\$ 407	\$ 360
II. PLANT CHARACTERISTICS							
V	Net Summer 75F Capability (mw)	419	419	310	419	419	310
W	Net Win 75F Capability (mw)	430	430	332	430	430	332
X	Net Win 59F Capability (mw)	448	448	346	448	448	346
Y	Heat Rate btu/kwh 75F 100% Load	6,470	6,245	6,768	6,470	6,245	6,768
Z	Heat Rate btu/kwh 75F 75%	6,970	6,729	7,389	6,970	6,729	7,389
AA	Equiv. Avail. %	96%	96%	96%	96%	96%	96%
BB	Sched Outage (wks/yr)	1.5	1.5	1.5	1.5	1.5	1.5
CC	Equiv Forced Outage	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
III. OPERATION							
DD	Total GWh (mm/yr)	4,155	4,155	3,157	4,241	4,241	3,157
EE	Fixed (\$/kw - yr)	7.69	7.69	7.69	4.31	4.31	4.31
FF	Variable (excl. fuel) (\$/mwh)	0.405	0.405	0.602	0.405	0.405	0.602
GG	Capital Replace (\$mm/yr)	2.30	2.30	2.30	2.30	2.30	2.30
IV. SPENDING CURVES							
HH	Year 6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
II	Year 5	\$ 709	\$ 709	\$ 516	\$ -	\$ -	\$ -
JJ	Year 4	\$ 1,418	\$ 1,418	\$ 1,031	\$ 730	\$ 730	\$ 538
KK	Year 3	\$ 30,126	\$ 30,126	\$ 21,915	\$ 1,277	\$ 1,277	\$ 941
LL	Year 2	\$ 56,708	\$ 56,708	\$ 41,252	\$ 85,024	\$ 85,024	\$ 62,658
MM	Year 1	\$ 88,252	\$ 88,252	\$ 64,199	\$ 95,424	\$ 95,424	\$ 70,323
V. NOTES:		\$ 177,213	\$ 177,213	\$ 128,913	\$ 182,456	\$ 182,456	\$ 134,460
NN	Net MW change (summer)	+419 New NSC	+419 New NSC	+310 New NSC	+419 New NSC	+419 New NSC	+310 New NSC
OO	Equipment Available Equipment	2003-2005 ATS - "H" 1CT & 1HRSG Tower	2006+ ATS - "H" 1CT & 1HRSG Tower	2000+ "G" 1CT & 1HRSG Tower	2003-2005 ATS - "H" 1CT & 1HRSG Reservoir	2006+ ATS - "H" 1CT & 1HRSG Reservoir	2000+ "G" 1CT & 1HRSG Reservoir
PP	Cooling	Tower	Tower	Tower	Reservoir	Reservoir	Reservoir
QQ	SCR's	no	no	no	no	no	no
RR	SCR's Adder	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,500	\$ 3,500

60005016

R. 11408

**SUMMARY OF GENERATION ALTERNATIVES
COST AND COMPETITION TEAM
IRP 1997**

DOCKET NO. 88-148-1
L. Kollen Exhibit No. ____ (LK-10)
Sanford Comparisons
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New Generation Alternatives		7	8	9	10	11	12	13
Alternatives:		Repower HotWind Box PTF-1	Repower PRV 2	Repower PSN 3	Repower PFM-1	Repower PCU-5	400 On Martin	600 On Martin
I. CONSTRUCTION (1000) 1996 \$								
A	Permit/Eng/Fab (months)	24	24	24	30	30	30	30
B	Construction Phase (months)	22	17	21	24	21	30	30
EC	Project Total (months)	46	41	45	54	51	60	60
D	Land	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
E	Materials	\$ 58,735	\$ 52,923	\$ 95,151	\$ 100,735	\$ 45,934	\$ 202,000	\$ 400,000
F	Labor & Equipment	\$ 17,696	\$ 10,110	\$ 18,132	\$ 29,853	\$ 18,193	\$ 106,000	\$ 180,000
G	Total Direct Cost	\$ 76,431	\$ 63,033	\$ 113,283	\$ 130,588	\$ 64,127	\$ 308,000	\$ 580,000
H	Construction Indirects	\$ 1,911	\$ 2,043	\$ 2,973	\$ 3,265	\$ 1,603	\$ -	\$ -
I	Licensing	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 4,000	\$ 8,500	\$ 8,500
J	Project Support	\$ 4,000	\$ 5,788	\$ 5,830	\$ 4,000	\$ 4,000	\$ 3,548	\$ 3,836
K	Contingency	\$ 6,827	\$ 8,125	\$ 13,759	\$ 8,451	\$ 4,424	\$ 9,482	\$ 20,693
L	Total Indirect Cost	\$ 15,738	\$ 18,956	\$ 25,562	\$ 18,716	\$ 14,027	\$ 21,530	\$ 33,029
M	\$/KW Net Summer	\$ 683	\$ 410	\$ 503	\$ 541	\$ 662	\$ 824	\$ 766
N	\$/KW Net Winter	\$ 580	\$ 363	\$ 422	\$ 454	\$ 579	\$ 820	\$ 762
O	Fuel Expansion	\$ -	\$ -	\$ -	\$ 95,000	\$ -	\$ 16,000	\$ 16,000
P	Transmission Expansion							
Q	Railroad & Cars							
R	Total Other Cost	\$ -	\$ -	\$ -	\$ 95,000	\$ -	\$ 16,000	\$ 16,000
S	Grand Total Cost	\$ 92,169	\$ 81,989	\$ 138,845	\$ 244,304	\$ 78,154	\$ 345,530	\$ 629,029
T	\$/KW Net Summer	\$ 683	\$ 410	\$ 503	\$ 685	\$ 662	\$ 864	\$ 786
U	\$/KW Net Winter	\$ 580	\$ 363	\$ 422	\$ 743	\$ 579	\$ 860	\$ 782
II. PLANT CHARACTERISTICS								
V	Net Sum 95F Capability (mw)	135	200	276	276	118	400	800
W	Net Win 59F Capability (mw)	159	226	329	329	135	402	804
X	Heat Rate btu/kwh 75F 100% Load HHV	8,368	7,615	7,379	7,379	7,570	9,683	9,683
Y	Heat Rate btu/kwh 75F 75%	8,272	7,911	7,619	7,619	7,820	10,004	10,004
Z	Heat Rate btu/kwh 75F 50%	8,417	8,512	7,429	7,429	8,580	10,384	10,384
AA	Equiv. Avail. %	95%	96%	96%	95%	95%	97%	97%
BB	Sched Outage (wks/yr)	1.6	1.3	1.3	1.6	1.6	1.0	1.0
CC	Equiv Forced Outage	2.0%	1.5%	1.5%	2.0%	2.0%	1.0%	1.0%
III. OPERATION								
DD	Total O&M (\$mm/yr)	1.997	2.74	2.84	2.97	2.22	9.93	16.29
EE	Fixed (\$/kw - yr)	9.58	6.82	5.37	5.58	9.92	10.62	6.89
FF	Variable (excl. fuel) (\$/mwh)	0.623	0.819	0.585	0.620	1.064	1.671	1.585
GG	Capital Replace (\$mm/yr)	1.00	1.00	2.10	2.10	1.00	2.00	3.00
IV. SPENDING CURVES								
HH	Year 6	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
II	Year 5	\$ 1,567	\$ -	\$ -	\$ -	\$ -	\$ 7,874	\$ 10,694
JJ	Year 4	\$ 2,212	\$ 1,558	\$ 2,638	\$ 4,642	\$ 1,485	\$ 8,293	\$ 15,097
KK	Year 3	\$ 16,498	\$ 10,249	\$ 17,356	\$ 30,538	\$ 9,769	\$ 61,850	\$ 112,596
LL	Year 2	\$ 25,070	\$ 34,927	\$ 59,148	\$ 104,073	\$ 33,294	\$ 93,984	\$ 171,096
MM	Year 1	\$ 46,822	\$ 35,255	\$ 59,704	\$ 105,051	\$ 33,606	\$ 175,529	\$ 319,547
V.	NOTES:	\$ 92,169	\$ 81,989	\$ 138,845	\$ 244,304	\$ 78,154	\$ 345,530	\$ 629,029
NN	Net MW change (summer)	+135 From NSC Incremental VB4.3	+200 New NSC	+276 From NSC Incremental "F"	+276 From NSC Incremental "F"	+118 From NSC Incremental VB4.3	+400 New NSC	+800 New NSC
OO	Equipment	1CT Existing no	1CT & 1HRSG Existing no	2CT & 2HRSG Existing no	2CT & 2HRSG Existing no	1CT & 1HRSG Existing no	N/A	N/A
PP	Cooling						Reservoir	Reservoir
QQ	SCR's						no	no
RR	Back-Up Fuel Adder	\$ 1,500	\$ 2,500	\$ 2,500	\$ 3,000	\$ 1,500	\$ 3,000	\$ 3,000

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New Generation Alternatives			
		20	21
Alternatives:		Repower	Repower
		PFM Unit 1&2	PSN Unit 3&4
I. CONSTRUCTION (1000) 1998 \$			
A	Permit/Eng/Fab (months)	22	24
B	Construction Phase (months)	25	24
C	Project Total (months)	47	48
D	Land	\$ (681)	\$ -
E	Materials	\$ 291,802	\$ 279,521
F	Labor & Equipment	\$ 85,450	\$ 77,075
G	Total Direct Cost	\$ 376,571	\$ 356,596
H	Construction Indirects	\$ -	\$ -
I	Licensing	\$ 5,000	\$ 5,000
J	Project Support	\$ 5,000	\$ 5,000
K	Contingency	\$ -	\$ 25,000
L	Total Indirect Cost	\$ 10,000	\$ 35,000
M	\$/KW Net Summer	\$ 263	\$ 266
N	\$/KW Net Winter	\$ 241	\$ 244
O	Fuel Expansion	\$ 6,000	\$ 2,000
P	Transmission Expansion	\$ 26,000	\$ 48,000
Q	Railroad & Cars	\$ -	\$ -
R	Total Other Cost	\$ 32,000	\$ 50,000
S	Grand Total Cost	\$ 418,571	\$ 441,596
T	\$/KW Net Summer	\$ 285	\$ 300
U	\$/KW Net Winter	\$ 261	\$ 275
II. PLANT CHARACTERISTICS			
V	Net Summer Capacity (mw)	1,470	1,470
W	Net Win 75F Capacity (mw)	1,535	1,535
X	Net Win 59F Capacity (mw)	1,605	1,605
Y	Heat Rate btu/kwh 75F 100% Load HHV	6,785	6,795
Z	Heat Rate btu/kwh 75F 75%	6,830	6,830
AA	Heat Rate btu/kwh 75F 50%	7,450	7,450
BB	Equiv. Avail. %	96%	96%
CC	Sched Outage (wks/yr)	1.5	1.5
DD	Equiv Forced Outage	1.0%	1.0%
III. OPERATION			
EE	Total O&M (\$mm/yr)	-	5.172
FF	Fixed (\$/kw - yr)	0.00	1.087
GG	Variable (excl. fuel) (\$/mwh)	-	0.370
HH	Capital Replace (\$mm/yr)	0.00	12.67
IV. SPENDING CURVES			
II	Year 6	\$ -	\$ -
JJ	Year 5	\$ 5,450	\$ -
KK	Year 4	\$ 31,042	\$ 38,499
LL	Year 3	\$ 227,471	\$ 239,984
MM	Year 2	\$ 116,227	\$ 122,620
	Year 1	\$ 38,381	\$ 40,492
V. NOTES:		\$ 418,571	\$ 441,596
NN	Net MW change (summer)	+953	+953
	Equipment Available	New NSC	New NSC
OO	Equipment	Incremental O&M	Incremental O&M
PP	Cooling	7F++	2002
QQ	SCR's	6CT&6HRSG	7F++
RR	Back-Up Fuel Adder	Existing	6CT&6HRSG
		no	Existing
		\$ -	\$ -

9/14/98
re Bob Burge

at 35° 1650 mw

6745 at 35° F.

New Generation Alternatives			
		20	21
Alternatives:		Repower Simple Cycle PFM 1 CT SC	Repower Simple Cycle PSN 1CT SC
I. CONSTRUCTION (1000) 1998 \$			
A	Permit/Eng/Fab (months)		
B	Construction Phase (months)		
C	Project Total (months)		
D	Land		
E	Materials		
F	Labor & Equipment		
G	Total Direct Cost	\$ -	\$ -
H	Construction Indirects		
I	Licensing		
J	Project Support		
K	Contingency		
L	Total Indirect Cost	\$ -	\$ -
M	\$/KW Net Summer	\$ -	\$ -
N	\$/KW Net Winter	\$ -	\$ -
O	Fuel Expansion		
P	Transmission Expansion		
Q	Railroad & Cars		
R	Total Other Cost	\$ -	\$ -
S	Grand Total Cost	\$ -	\$ -
T	\$/KW Net Summer	\$ -	\$ -
U	\$/KW Net Winter	\$ -	\$ -
II. PLANT CHARACTERISTICS			
V	Net Sum 95F Capability (mw)	149	149
W	Net Win 75F Capability (mw)	163	163
X	Net Win 59F Capability (mw)	172	172
Y	Heat Rate btu/kwh 75F 100% Load HHV	10,450	10,450
Z	Heat Rate btu/kwh 75F 75%	11,280	11,280
AA	Heat Rate btu/kwh 75F 50%	13,500	13,500
BB	Equip. Avail. %		
CC	Sched Outage (wks/yr)		
DD	Equip. Forced Outage		
III. OPERATION			
EE	Total O&M (\$mm/yr)		
FF	Fixed (\$/kw - yr)		
GG	Variable (excl. fuel) (\$/mwh)		
HH	Capital Replace (\$mm/yr)		
IV. SPENDING CURVES			
II	Year 6	\$ -	\$ -
JJ	Year 5	\$ -	\$ -
KK	Year 4	\$ -	\$ -
LL	Year 3	\$ -	\$ -
MM	Year 2	\$ -	\$ -
	Year 1	\$ -	\$ -
V. NOTES:		\$ -	\$ -
NN	Net MW change (summer)		
OO	Equipment Available	New NSC	New NSC
PP	Equipment	2002 7F++ Simple Cycle	2002 7F++ Simple Cycle
QQ	Cooling	N/A	N/A
RR	SCR's	no	no
	Back-Up Fuel Adder	\$ -	\$ -

9/14/98 from
Bob Bergan

mw
182 at 35° F.

10,220 at 35° F.

New Generation Alternatives				
			20	21
Alternatives:			Repower	Repower
			PFM Unit 1&2	PSN Unit 3&4
I CONSTRUCTION (1000) 1998 \$				
A	Permit/Eng/Fab (months)			24
B	Construction Phase (months)			24
C	Project Total (months)			
D	Land	\$ (681)	\$	
E	Materials	\$ 291,802	\$	279,521
F	Labor & Equipment	\$ 85,450	\$	77,075
G	Total Direct Cost	\$ 376,571	\$	356,596
H	Construction Indirects	\$ -	\$	-
I	Licensing	\$ 5,000	\$	5,000
J	Project Support	\$ 5,000	\$	5,000
K	Contingency	\$ -	\$	25,000
L	Total Indirect Cost	\$ 10,000	\$	35,000
M	\$/KW Net Summer	\$ 263	\$	266
N	\$/KW Net Winter	\$ 241	\$	244
O	Fuel Expansion	\$ 6,000	\$	2,000
P	Transmission Expansion	\$ 26,000	\$	48,000
Q	Railroad & Cars	\$ -	\$	-
R	Total Other Cost	\$ 32,000	\$	50,000
S	Grand Total Cost	\$ 418,571	\$	441,596
T	\$/KW Net Summer	\$ 285	\$	300
U	\$/KW Net Winter	\$ 261	\$	275
II. PLANT CHARACTERISTICS				
V	Net Summer Capability (mw)	1,470		1,470
W	Net Win 75F Capability (mw)	1,535		1,535
X	Net Win 59F Capability (mw)	1,605		1,605
Y	Heat Rate btu/kwh 75F 100% Load HHV	6,795		6,795
Z	Heat Rate btu/kwh 75F 75%	6,830		6,830
AA	Heat Rate btu/kwh 75F 50%	7,450		7,450
BB	Equiv Avail %	96%		96%
CC	Sched Outage (wks/yr)	1.5		1.5
DD	Equiv Forced Outage	1.0%		1.0%
III. OPERATION				
EE	Total O&M (\$mm/yr)			6.172
FF	Fixed (\$/kw - yr)	0.00		1.067
GG	Variable (excl. fuel) (\$/mwh)			0.370
HH	Capital Replace (\$mm/yr)	0.00		12.67
IV. SPENDING CURVES				
II	Year 5	\$ 5,450	\$	-
JJ	Year 4	\$ 31,042	\$	-
KK	Year 3	\$ 227,471	\$	36,499
LL	Year 2	\$ 116,227	\$	239,984
MM	Year 1	\$ 38,381	\$	122,620
V	NOTES:	\$ 418,571	\$	441,596
NN	Net MW change (summer)	+953		+953
		New NSC		New NSC
	Equipment Available	Incremental O&M		Incremental O&M
OO	Equipment	7F++		7F++
		6CT&6HRSG		6CT&6HRSG
PP	Cooling	Existing		Existing
QQ	SCR's	no		no
RR	Back-Up Fuel Adder	\$	\$	

New Generation Alternatives			
		2C	2*
Alternatives:		Repower Simple Cycle PFM 1 CT SC	Repower Simple Cycle PSN 1CT SC
I. CONSTRUCTION (1000) 1998 \$			
A	Permit/Eng/Fab (months)		
B	Construction Phase (months)		
C	Project Total (months)		
D	Land		
E	Materials		
F	Labor & Equipment		
G	Total Direct Cost	\$ -	\$ -
H	Construction Indirects		
I	Licensing		
J	Project Support		
K	Contingency		
L	Total Indirect Cost	\$ -	\$ -
M	\$/KW Net Summer	\$ -	\$ -
N	\$/KW Net Winter	\$ -	\$ -
O	Fuel Expansion		
P	Transmission Expansion		
Q	Railroad & Cars		
R	Total Other Cost	\$	\$
S	Grand Total Cost	\$	\$
T	\$/KW Net Summer	\$	\$
U	\$/KW Net Winter	\$ -	\$ -
II. PLANT CHARACTERISTICS			
V	Net Sum 95E Capability (mw)	149	149
v	Net Win 75F Capability (mw)	163	163
W	Net Win 59F Capability (mw)	172	172
X	Heat Rate btu/kwh 75F 100% Load HHV	10,450	10,450
Y	Heat Rate btu/kwh 75F 75%	11,280	11,280
Z	Heat Rate btu/kwh 75F 50%	13,500	13,500
AA	Equiv. Avail %		
BB	Sched Outage (wks/yr)		
CC	Equiv Forced Outage		
III. OPERATION			
DD	Total O&M (\$mm/yr)		
EE	Fixed (\$/kw - yr)		
FF	Variable (excl. fuel) (\$/mwh)		
GG	Capital Replace (\$mm/yr)		
IV. SPENDING CURVES			
HH	Year 6	\$	\$ -
II	Year 5	\$ -	\$ -
JJ	Year 4	\$ -	\$ -
KK	Year 3	\$ -	\$ -
LL	Year 2	\$ -	\$ -
MM	Year 1	\$ -	\$ -
V	NOTES:	\$	\$ -
NN	Net MW change (summer)	New NSC	New NSC
OO	Equipment Available	2002 7F++	2002 7F++
PP	Equipment	Simple Cycle	Simple Cycle
QQ	Cooling	N/A	N/A
RR	SCR's	no	no
	Back-Up Fuel Adder	\$	\$

New Generation Alternatives							
			1E	1S	20	21	21A
Alternatives:			200 SC	500 CC - F++	Repower	Repower	Repower
			Exist Site - "G"	Greenfield	PFM Unit 1&2	PSN Unit 3&4	PSN Unit 3&4
I. CONSTRUCTION (1000) 1998 \$							
A	Permit/Eng/Fab (months)		9	24	22	24	24
B	Construction Phase (months)		6	24	25	24	24
C	Project Total (months)		15	48	47	48	48
D	Land	\$	-	1,200	(681)	-	-
E	Materials	\$	42,059	120,000	291,802	279,521	279,521
F	Labor & Equipment	\$	6,333	44,000	85,450	77,075	77,075
G	Total Direct Cost:	\$	48,402	165,200	376,571	356,596	356,596
H	Construction Indirects	\$	-	-	-	-	-
I	Licensing	\$	400	3,200	5,000	5,000	5,000
J	Project Support	\$	1,090	2,700	5,000	5,000	5,000
K	Contingency	\$	249	6,844	-	25,000	25,000
			240	378	276		
			212	350	252		
O	Fuel Expansion	\$	200	4,000	6,000	2,000	2,000
P	Transmission Expansion	By Others		13,000	26,000	48,000	48,000
Q	Railroad & Cars	\$	-	-	-	-	-
R	Total Other Cost	\$	200	17,000	32,000	50,000	50,000
S	Grand Total Cost	\$	50,341	194,944	418,571	441,596	441,596
T	\$/KW Net Summer	\$	241	414	300	317	314
U	\$/KW Net Winter	\$	212	383	273	288	285
II. PLANT CHARACTERISTICS							
V	Net Sum 95F Capability (mw)		209	471	953	953	967
W	Net Win 75F Capability (mw)		224	491	1,499	1,499	1,514
X	Net Win 59F Capability (mw)		237	509	1,534	1,534	1,549
Y	Heat Rate btu/kwh 75F 100% Load HHV		10,010	6,802	6,802	6,802	6,768
Z	Heat Rate btu/kwh 75F 75%		10,915	6,832	6,832	6,832	6,798
AA	Heat Rate btu/kwh 75F 50%		11,875	7,458	7,458	7,458	7,421
BB	Equiv Avail %		98%	96%	96%	96%	96%
CC	Sched Outage (wks/yr)		0.5	1.5	1.5	1.5	1.5
DD	Equiv Forced Outage		1.0%	1.0%	1.0%	1.0%	1.0%
III. OPERATION							
EE	Total O&M (mm/yr)		0.64	24,701	5,849	5,849	5,924
FF	Fixed (\$/kw - yr)		0.51	4.95	0.00	1.087	1.065
GG	Variable (excl fuel) (\$/mwh)		0.295	0.598	-	0.370	0.374
				4.44	0.00	12.67	12.73
HH	Year 6	\$	-	-	-	-	-
II	Year 5	\$	-	-	5,450	-	-
JJ	Year 4	\$	-	780	31,042	38,499	38,499
KK	Year 3	\$	-	1,365	227,471	239,984	239,984
LL	Year 2	\$	17,620	90,844	116,227	122,620	122,620
MM	Year 1	\$	32,722	101,956	38,381	40,492	40,492
V. NOTES:			\$ 50,341	\$ 194,944	\$ 418,571	\$ 441,596	\$ 441,596
NN	Net MW change (summer)		+209	+471	+953	+953	+967
OO	Equipment Available		New NSC	New NSC	New NSC	New NSC	New NSC
PP	Equipment		1-CT - "G"	7F++	7F++	7F++	7F++
QQ	Cooling		Existing	2CT&2HRSG&1ST Tower	6CT&6HRSG Existing	6CT&6HRSG Existing	6CT&6HRSG Existing
RR	SCR's		no	no	no	no	no
SS	Back-Up Fuel Adder	\$	2,500	3,500			

APRIL 9, 1999

SUMMARY OF GENERATION ALTERNATIVES
IRP 1999Docket No. 001148-EI
L. Kollen Exhibit No. ____ (LK-10)
Sanford Comparisons
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New Generation Alternatives						
	14	15	16	17	18	19
Alternatives:	400 CFB	400 CFB	400 PC	400 PC	150 SC - F	500 CC - F
	Greenfield	Martin	Greenfield	Martin	Simple Cycle Existing Site	7241 Greenfield
I. CONSTRUCTION (1000) 1999 \$						
A Permit/Eng/Fab (months)	33	30	36	30	9	24
B Construction Phase (months)	30	27	30	27	6	24
C Project Total (months)	63	57	66	57	15	48
D Land	\$ 1,210	\$ -	\$ 1,210	\$ -	\$ -	\$ 1,200
E Materials	\$ 224,210	\$ 224,210	\$ 226,000	\$ 224,000	\$ 32,000	\$ 120,000
F Labor & Equipment	\$ 95,586	\$ 95,586	\$ 104,000	\$ 104,000	\$ 10,000	\$ 44,000
G Total Direct Cost	\$ 321,006	\$ 319,796	\$ 331,210	\$ 328,000	\$ 42,000	\$ 165,200
H Construction Indirects	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
I Licensing	\$ 6,000	\$ 5,500	\$ 6,000	\$ 5,500	\$ 400	\$ 3,200
J Project Support	\$ 4,100	\$ 3,608	\$ 4,220	\$ 3,616	\$ 250	\$ 2,700
K Contingency	\$ 10,244	\$ 8,512	\$ 10,657	\$ 8,799	\$ 500	\$ 6,644
L Total Indirect Cost	\$ 20,344	\$ 17,620	\$ 20,877	\$ 17,915	\$ 1,150	\$ 12,744
M \$/KW Net Summer	\$ 853	\$ -	\$ 880	\$ 865	\$ 290	\$ 363
N \$/KW Net Winter	\$ 849	\$ 839	\$ 876	\$ 860	\$ 251	\$ 335
O Fuel Expansion	\$ -	\$ -	\$ -	\$ -	By Others	\$ -
P Transmission Expansion	By Others	By Others	By Others	By Others	By Others	By Others
Q Railroad & Cars	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ -	\$ -
R Total Other Cost	\$ 8,000	\$ 8,000	\$ 8,000	\$ 8,000	\$ -	\$ -
S Grand Total Costs	\$ 349,350	\$ 345,416	\$ 360,087	\$ 353,915	\$ 43,150	\$ 177,944
T \$/KW Net Summer	\$ 873	\$ 864	\$ 900	\$ 885	\$ 290	\$ 363
U \$/KW Net Winter	\$ 869	\$ 859	\$ 896	\$ 880	\$ 251	\$ 335
II. PLANT CHARACTERISTICS						
V Net Summer Capability (mw)	400	400	400	400	149	490
W Net Win 75F Capability (mw)	401	401	401	401	163	510
X Net Win 59F Capability (mw)	402	402	402	402	172	532
Y Heat Rate btu/kwh 75F 100% Load HHV	9,600	9,600	9,500	9,500	10,450	6,830
Z Heat Rate btu/kwh 75F 75%	9,700	9,700	9,600	9,600	11,280	7,171
AA Equip. Avail. %	97%	97%	97%	97%	98%	96%
BB Sched Outage (wks/yr)	1.0	1.0	1.0	1.0	0.5	1.5
CC Equip Forced Outage	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
III. OPERATION						
DD Total O&M (\$mm/yr)	\$ 15,25	\$ 9,37	\$ 12,91	\$ 11,03	\$ 0.18	\$ 4.59
EE Fixed (\$/kw - yr)	15.40	10.70	18.66	13.96	0.72	5.18
FF Variable (excl fuel) (\$/mwh)	1.497	1.497	1.603	1.603	0.59	0.50
GG Capital Replace (\$mm/yr)	2.00	2.00	3.00	3.00	0.00	3.32
IV. SPENDING CURVES						
HH Year 6	\$ 1,397	\$ -	\$ 1,440	\$ -	\$ -	\$ -
II Year 5	\$ 6,987	\$ 5,872	\$ 7,202	\$ 6,724	\$ -	\$ -
JJ Year 4	\$ 8,384	\$ 8,290	\$ 8,642	\$ 8,494	\$ -	\$ 712
KK Year 3	\$ 60,088	\$ 61,829	\$ 61,935	\$ 62,643	\$ -	\$ 1,246
LL Year 2	\$ 95,023	\$ 93,953	\$ 97,944	\$ 96,265	\$ 15,103	\$ 82,922
MM Year 1	\$ 177,470	\$ 175,471	\$ 182,924	\$ 179,789	\$ 28,048	\$ 93,065
V. NOTES:	\$ 349,350	\$ 345,416	\$ 360,087	\$ 353,915	\$ 43,150	\$ 177,944
NN Net MW change (summer)	+400	+400	+400	+400	+149	+490
	New NSC	New NSC	New NSC	New NSC	New NSC	New NSC
OO Equipment Available					2002	
Equipment	1CFB	1CFB	PC	PC	7F 7241	7F 7241 Foggers
PP Cooling	Tower	Reservoir	Tower	Reservoir	Simple Cycle	2CT&2HRSG&1ST
QQ SCR's	yes - SNCR	yes - SNCR	yes - SCR	yes - SCR	N/A	Tower
RR Back-Up Fuel Adder	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	no	no
					Included	\$ 3,500

new alternatives rev499.xls

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R. 11418

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New Generation Alternatives		2C	21A	21E	22	23
Alternatives:		Repower	Repower	Repower	400 CC - ATG	400 CC - ATG
		PFM Unit 1&2	PSN Unit 4	PSN Unit 5	Ft. Myers	Ft. Myers
I. CONSTRUCTION (1000) 1999 \$						
A	Permit/Eng/Fab (months)	5	10	10	22	22
B	Construction Phase (months)	2E	2E	2E	19	19
C	Project Total (months)	30	30	30	41	41
D	Land	\$ -	\$ -	\$ -	\$ -	\$ -
E	Materials	\$ 285,148	\$ 175,231	\$ 175,231	\$ 123,000	\$ 88,747
F	Labor & Equipment	\$ 111,342	\$ 68,866	\$ 68,866	\$ 35,000	\$ 25,253
G	Total Direct Cost	\$ 396,489	\$ 244,097	\$ 244,097	\$ 158,000	\$ 114,000
H	Construction Indirects	\$ -	\$ -	\$ -	\$ -	\$ -
I	Licensing	\$ 5,282	\$ 2,605	\$ 2,605	\$ 3,600	\$ 3,600
J	Project Support	\$ 5,865	\$ 3,079	\$ 3,079	\$ 2,700	\$ 2,700
K	Contingency	\$ 5,284	\$ 11,118	\$ 11,118	\$ 6,572	\$ 4,560
L	Total Indirect Cost	\$ 16,432	\$ 16,802	\$ 16,802	\$ 12,872	\$ 10,860
M	\$/KW Net Summer	\$ 281	\$ 268	\$ 268	\$ 434	\$ 400
N	\$/KW Net Winter	\$ 259	\$ 251	\$ 251	\$ 396	\$ 352
O	Fuel Expansion	\$ -	\$ -	\$ -	By Others	By Others
P	Transmission Expansion	\$ 27,906	\$ 39,832	\$ 39,832	By Others	By Others
Q	Railroad & Cars	\$ -	\$ -	\$ -	\$ -	\$ -
R	Total Other Cost	\$ 27,906	\$ 39,832	\$ 39,832	\$ -	\$ -
S	Grand Total Cost	\$ 440,827	\$ 300,731	\$ 300,731	\$ 170,872	\$ 124,860
T	\$/KW Net Summer	\$ 300	\$ 308	\$ 308	\$ 434	\$ 400
U	\$/KW Net Winter	\$ 276	\$ 290	\$ 290	\$ 396	\$ 352
II. PLANT CHARACTERISTICS						
V	Net Sum 95F Capability (mw)	1,470	975	975	394	312
V	Net Win 75F Capability (mw)	1,530	1,017	1,017	410	336
W	Net Win 59F Capability (mw)	1,595	1,038	1,038	429	355
X	Heat Rate btu/kwh 75F 100% Load HHV	6,830	6,860	6,860	6,546	6,675
Y	Heat Rate btu/kwh 75F 75%	7,171	7,203	7,203	6,599	7,010
Z	Heat Rate btu/kwh 75F 50%	7,718	7,752	7,752	7,297	7,710
AA	Equip Avail %	95%	95%	95%	95%	95%
BB	Sched Outage (wks/yr)	1.5	1.5	1.5	1.5	1.5
CC	Equip Forced Outage	1.0%	1.0%	1.0%	1.0%	1.0%
III. OPERATION						
DD	Total O&M (\$mm/yr)	\$ 9.55	\$ 6.21	\$ 6.21	\$ 3.89	\$ 3.37
EE	Fixed (\$/kw - yr)	3.40	3.08	3.08	3.67	4.89
FF	Variable (excl. fuel) (\$/mwh)	0.368	0.39	0.39	0.71	0.70
GG	Capital Replace (\$mm/yr)	9.20	6.33	6.33	3.51	2.59
IV. SPENDING CURVES						
HH	Year 6	\$ -	\$ -	\$ -	\$ -	\$ -
II	Year 5	\$ 10,304	\$ 31,400	\$ -	\$ -	\$ -
JJ	Year 4	\$ 148,505	\$ 119,450	\$ -	\$ 653	\$ -
KK	Year 3	\$ 138,864	\$ 91,714	\$ -	\$ -	\$ -
LL	Year 2	\$ 117,147	\$ 42,096	\$ -	\$ -	\$ -
		\$ 26,007	\$ 16,004	\$ -	\$ -	\$ -
V. NOTES:		\$ 440,827	\$ 300,663	\$ 300,663	\$ 170,872	\$ 124,860
NN	Net MW change (summer)	+953 New NSC	+607 New NSC	+607 New NSC	+394 New NSC	+312 New NSC
OO	Equipment Available Equipment	7F 7241 Foggers 6CT&6HRSG	7F 7241 Foggers 4CT&4HRSG	7F 7241 Foggers 4CT&4HRSG	2003-2005 ATS - "H" 1CT & 1HRSG Towers	2000+ "G" 1CT & 1HRSG Towers
PP	Cooling	Existing	Existing	Existing	Existing	Existing
QQ	SCR's	no	no	no	no	no
RR	Back-Up Fuel Adder	\$ -	\$ -	\$ -	\$ 3,500	\$ 3,500

New Generation Alternatives		7	8	9	10	11	12	13
Alternatives:		600 CC - G	600 CC - G	500 CC - F	500 CC - F	150 SC - F	400 CFB	400 CFB
		Greenfield	Existing Site	Greenfield	Existing Site	Simple Cycle Existing Site	Greenfield	Non
I. CONSTRUCTION (1000) 2000 \$								
A	Permit/Eng/Fab (months)	24	20	24	24	12	30	30
B	Construction Phase (months)	24	24	24	24	11	30	27
C	Project Total (months)	48	44	48	48	23	60	57
D	Land	\$1,200	\$0	\$1,200	\$0	\$0	\$1,200	\$0
E	Materials	\$245,218	\$242,548	\$135,000	\$130,500	\$38,313	\$257,000	\$257,000
F	Labor & Equipment	\$51,403	\$47,667	\$41,017	\$32,817	\$9,635	\$117,480	\$117,350
G	Total Direct Cost	\$297,821	\$290,215	\$177,217	\$163,317	\$46,951	\$375,680	\$374,350
H	Construction Indirects	\$0	\$0	\$0	\$0	\$0	\$0	\$0
I	Licensing	\$2,500	\$2,000	\$2,500	\$2,000	\$600	\$6,000	\$5,500
J	Project Support	\$20,500	\$19,900	\$12,628	\$12,028	\$2,777	\$4,100	\$3,600
K	Contingency	\$16,041	\$12,485	\$7,694	\$7,094	\$503	\$10,244	\$9,510
L	Total Indirect Cost	\$39,041	\$34,385	\$22,822	\$21,122	\$3,880	\$20,344	\$17,610
M	\$/KW Net Summer	\$545	\$525	\$416	\$383	\$330	\$990	\$980
N	\$/KW Net Winter	\$485	\$468	\$378	\$349	\$295	\$985	\$975
O	Fuel Expansion	By Fuels	By Fuels	By Fuels	By Fuels	By Fuels	\$0	\$0
P	Transmission Expansion	By Pwr Deliv	By Pwr Deliv	By Pwr Deliv	By Pwr Deliv	By Pwr Deliv	By Pwr Deliv	By Pwr Deliv
Q	Railroad & Cars	\$0	\$0	\$0	\$0	\$0	\$5,000	\$8,000
R	Total Other Cost	\$0	\$0	\$0	\$0	\$0	\$5,000	\$8,000
S	Grand Total Cost	\$336,862	\$324,600	\$200,039	\$184,439	\$50,831	\$404,004	\$400,000
T	\$/KW Net Summer	\$545	\$525	\$416	\$383	\$330	\$1010	\$1000
U	\$/KW Net Winter	\$485	\$468	\$378	\$349	\$295	\$1005	\$995
II. PLANT CHARACTERISTICS								
V	Net Summer Capability (mw)	618	618	512	512	165	401	401
W	Net Winter Capability (mw)	694	694	529	529	172	402	402
X	Heat Rate btu/kwh 75F 100% Coad HHV	6,964	6,964	6,964	6,964	11,390	9,800	9,800
Y	Heat Rate btu/kwh 75F 75%	6,964	6,964	6,964	6,964	11,390	9,800	9,800
Z	Heat Rate btu/kwh 75F 50%	7,464	7,464	7,464	7,464	13,720	10,300	10,300
AA	Equip. Avail. %	96%	96%	96%	96%	98%	89%	89%
BB	Sched Outage (wks/yr)	1.5	1.5	1.5	1.5	0.5		4.0
CC	Equip Forced Outage	1.0%	1.0%	1.0%	1.0%	1.0%	3.0%	3.0%
III. OPERATION						10% Capex Cost		
DD	Fixed (\$/kw - yr)	4.32	2.14	5.12	2.54	0.68	15.40	10.70
EE	% Manpower/ % Matenal, Equip	59% / 41%	26% / 74%	59% / 41%	26% / 74%	0% / 100%	80% / 20%	74% / 26%
FF	Variable (excl fuel) (\$/mwh)	0.99	0.99	0.55	0.55	0.86	1.50	1.50
GG	% Manpower/ % Matenal, Equip	24% / 76%	24% / 76%	33% / 67%	33% / 67%	0% / 100%	11% / 89%	11% / 89%
HH	Capital Replace (\$mm/yr)	6.76	6.76	3.86	3.86	0.00	2.00	2.00
IV. SPENDING CURVES								
II	Year 5	\$0	\$0	\$0	\$0	\$0	\$11,637	\$10,456
JJ	Year 4	\$4,375	\$4,220	\$2,601	\$2,395	\$0	\$13,384	\$13,290
KK	Year 3	\$110,491	\$106,465	\$65,613	\$60,496	\$0	\$70,088	\$71,829
LL	Year 2	\$181,906	\$175,284	\$108,021	\$99,597	\$25,924	\$110,023	\$108,953
MM	Year 1	\$40,087	\$38,627	\$23,805	\$21,945	\$24,907	\$197,471	\$195,472
V. NOTES:								
NN	Net MW change (summer)	+618	+618	+481	+481	+154	+400	+400
	Plant Life Years	New NSC	New NSC	New NSC	New NSC	New NSC	New NSC	New NSC
	Equipment Available	2000+	2000+	30	30	2002	30	30
OO	Equipment	"G"	"G"	7F 7241 Foggers	7F 7241 Foggers	7F 7241	1CFB	1CFB
		2CT & 2HRSG	2CT & 2HRSG	2CT&2HRSG&1ST	2CT&2HRSG&1ST	Simple Cycle		
PP	Cooling	Tower	Tower	Tower	Tower	N/A	Tower	Reservoir
	CR's	YES	YES	no	no	no	yes - SNCR	yes - SNC
QQ	Back-Up Fuel Adder	\$7,000	\$7,000	\$5,500	\$5,500	Included	\$3,000	\$3,000

New Generation Alternatives		14	15	16 -	17	18	19
Alternatives:		400 PC Greenfield	400 PC Martin	CC - F Repower 400mw Unit	100% Pet Coke Fuel Switch Riviera	100% Pet Coke Fuel Switch Martin	CC Fm - G Dual Fuel Monrovia
I CONSTRUCTION (1000) 2000 \$							
A	Permit/Eng/Fab (months)	36	30	10	18	30	0
B	Construction Phase (months)	30	27	28	30	34	4
C	Project Total (months)	66	57	38	48	64	4
D	Land	\$1,200	\$0	\$0	\$0	\$0	\$0
E	Materials	\$260,038	\$257,400	\$212,644	\$483,500	\$557,500	\$2,000
F	Labor & Equipment	\$126,685	\$126,300	\$69,141	Included Above	Included Above	\$1,000
G	Total Direct Cost:	\$387,923	\$383,700	\$281,785	\$483,500	\$557,500	\$3,000
H	Construction Indirects	\$0	\$0	\$18,746	\$0	\$0	\$0
I	Licensing	\$6,000	\$5,500	\$2,826	\$6,000	\$11,000	\$0
J	Project Support	\$4,220	\$3,601	\$5,952	\$5,000	\$9,000	\$250
K	Contingency	\$10,657	\$8,799	\$0	\$10,000	\$35,377	\$114
L	Total Indirect Cost:	\$20,877	\$17,900	\$24,524	\$21,000	\$55,377	\$364
M	\$/kW Net Summer	\$1,022	\$1,004	\$319	\$864	\$403	
N	\$/kW Net Winter	\$1,017	\$999	\$300	\$858	\$399	
O	Fuel Expansion	\$0	\$0	By Fuels	\$0	\$0	By Fuels
P	Transmission Expansion	By Pwr Deliv	By Pwr Deliv	By Pwr Deliv	\$0	\$0	\$0
Q	Railroad & Cars	\$8,000	\$8,000	\$0	Use Port	\$0	\$0
R	Total Other Cost:	\$8,000	\$8,000	\$0	\$0	\$0	\$0
S	Grand Total Cost:	\$416,800	\$409,600	\$311,309	\$504,500	\$642,877	\$3,364
T	\$/kW Net Summer	\$1,042	\$1,024	\$319	\$864	\$403	
U	\$/kW Net Winter	\$1,037	\$1,019	\$300	\$858	\$399	
II PLANT CHARACTERISTICS							
V	Net Summer Capability (mw)	400	400	975	584	1,554	
W	Net Win 75F Capability (mw)	401	401	1,017	586	1,608	
X	Net Win 59F Capability (mw)	402	402	1,038	588	1,612	
Y	Heat Rate btu/kwh 75F 75%	9,950	9,950	7,203	10,054	9,600	10,707
Z	Heat Rate btu/kwh 75F 50%	10,500	10,500	7,752	10,141	10,100	10,867
AA	Equip Avail %	89%	89%	96%	87%	94%	
BB	Sched Outage (wks/yr)	4.0	4.0	1.5	5.0	2.0	
CC	Equip Forced Outage	3.0%	3.0%	1.0%	3.0%	2.0%	
III OPERATION							
DD	Fixed (\$/kw - yr)	12.66	10.59	3.08	16.13	5.93	
EE	% Manpower/ % Matenal, Equip	84% / 16%	80% / 20%	59% / 41%	80% / 20%	70% / 30%	
FF	Variable (excl. fuel) (\$/mwh)	1.60	1.60	0.39	3.08	0.53	
GG	% Manpower/ % Matenal, Equip	11% / 89%	11% / 89%	35% / 65%	11% / 89%	11% / 89%	
HH	Capital Replace (\$mm/yr)	3.00	3.00	6.33	2.00	6.00	
IV SPENDING CURVES							
II	Year 6	\$1,440	\$0	\$44	\$0	\$2,572	\$0
II	Year 5	\$13,915	\$12,409	\$27,953	\$0	\$12,859	\$0
JJ	Year 4	\$13,642	\$13,494	\$159,042	\$25,225	\$15,429	\$0
KK	Year 3	\$71,935	\$72,643	\$87,265	\$90,810	\$110,575	\$0
LL	Year 2	\$112,944	\$111,265	\$29,377	\$136,215	\$174,862	\$0
MM	Year 1	\$202,924	\$199,789	\$7,617	\$252,250	\$320,560	\$3,364
V NOTES:							
NN	Net MW change (summer)	+400	+400	+607	+0	+0	+0
OO	Plant Life Years	30	30	30	30	30	
PP	Equipment Available	PC	PC	7F 7241 Foggers 4CT&4HRSG	2 CFB	4 Conv. Boilers Leased Br. End	Existing
QQ	Cooling	Tower	Reservoir	Existing	Tower	Reservoir	Reservoir
RR	SCR's	yes - SCR	yes - SCR	no	yes - SNCR	yes - SCR	No
SS	Back-Up Fuel Adder	\$3,000	\$3,000	\$0	\$0	\$0	\$0

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Ft Myers and Sanford Repowering Projects
5-Year Forecast Differences ... October 1998 - August 1999

Ft Myers Repowering ... Power Generation

	5-year Forecasts <u>October 1998</u>	5-year Forecasts <u>August 1999</u>	<u>Change</u>
1998	\$10,101,000	\$10,388,000	\$287,000
1999	\$147,905,000	\$149,015,000	\$1,110,000
2000	\$117,416,000	\$191,624,000	\$74,208,000
2001	\$118,434,000	\$49,151,000	(\$69,283,000)
2002	\$27,668,000	\$18,395,000	(\$9,273,000)
2003	\$0	\$5,501,000	\$5,501,000
Total Forecast	\$421,524,000	\$424,074,000	\$2,550,000

Sanford Repowering ... Power Generation

	5-year Forecasts <u>October 1998</u>	5-year Forecasts <u>August 1999</u>	<u>Change</u>
1998	\$787,000	\$88,000	(\$699,000)
1999	\$62,384,000	\$55,805,000	(\$6,579,000)
2000	\$156,519,000	\$271,953,000	\$115,434,000
2001	\$91,181,000	\$144,395,000	\$53,214,000
2002	\$95,085,000	\$58,609,000	(\$36,476,000)
2003	\$31,451,000	\$15,217,000	(\$16,234,000)
Total Forecast	\$437,407,000	\$546,067,000	\$108,660,000

8 SA's. 6 g2
 ✓ 10/30/98

**FPL POWER GENERATION BUSINESS UNIT
 SANFORD PLANT REPOWERING**
 (FPL BUDGET ACTIVITY # 722)
1999 Five-Year Capital Forecast
 October 29, 1998
TOTAL PROJECT (BA-722)

	TOTAL	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<u>POWER GENERATION BUSINESS UNIT</u>													
1998 (Prior Year)	\$787,345									\$5,000	\$42,039	\$311,090	\$429,216
1999	\$62,383,976	\$394,924	\$634,908	\$4,935,741	\$528,453	\$867,122	\$9,663,142	\$523,019	\$1,262,605	\$11,993,815	\$11,993,815	\$8,680,824	\$10,907,607
2000	\$156,518,801	\$13,296,207	\$15,799,811	\$11,023,210	\$11,023,210	\$10,926,739	\$21,530,759	\$12,899,560	\$12,815,672	\$13,308,730	\$13,997,550	\$9,508,999	\$10,388,353
2001	\$91,181,098	\$7,919,951	\$7,928,465	\$4,379,405	\$6,700,309	\$8,849,559	\$10,146,627	\$9,179,818	\$6,956,786	\$7,456,786	\$7,456,786	\$6,780,854	\$7,425,752
2002	\$95,085,019	\$10,864,522	\$7,294,904	\$6,763,037	\$8,742,583	\$10,590,344	\$8,717,671	\$10,342,731	\$11,599,450	\$7,275,422	\$4,968,702	\$3,184,228	\$4,741,426
2003	\$31,450,764	\$3,181,536	\$1,925,804	\$1,484,199	\$1,413,582	\$1,383,062	\$1,149,950	\$1,163,582	\$16,115,980	\$1,211,023	\$1,211,023	\$1,211,023	\$0
2004(After)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Sub-Total PGBU \$437,407,000

OTHER DEPTS (Power Delivery)

1998 (Prior Year)	\$0									\$0	\$0	\$0	\$0
1999	\$3,500,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$1,522,000	\$892,000	\$888,000
2000	\$15,200,000	\$1,820,000	\$1,820,000	\$1,820,000	\$1,820,000	\$95,000	\$95,000	\$95,000	\$95,000	\$100,000	\$2,500,000	\$2,500,000	\$2,440,000
2001	\$36,153,000	\$3,335,000	\$3,335,000	\$3,335,000	\$3,335,000	\$3,335,000	\$2,063,000	\$1,792,000	\$6,900,000	\$0	\$600,000	\$7,523,000	\$600,000
2002	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2003	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
2004(After)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Sub-Total Other Depts \$54,853,000

TOTAL PROJECT COST \$492,260,000
 (Excluding AFUDC)

Docket No. 001148-E1
 L. Kollen Exhibit No. (LK-12)
 Sanford Transmission Facilities Cost
 10/29/98

00421520

R. 11423

**SANFORD REPOWERING PROJECT
CURRENT RANGE OF ESTIMATES AT COMPLETION**

B&V PCR#12 - July 28, 2000

	Project Cost Est W/O Project Contingency	FPL Current Budget ("50/50 Estimate")	B&V Max Performance Estimate	B&V Worst-Case Estimate
Awarded Cost To-date (excl B&V performance Incentive)	\$435,882,081	\$435,882,081	\$435,882,081	\$435,882,081
B&V Allocated & Trended Contingencies on Awarded Cost (details attached)	\$16,424,464	\$16,424,464	\$16,424,464	\$16,424,464
Un-Awarded Major Contracts (see "major commitments listing")	\$62,704,655	\$62,704,655	\$62,704,655	\$62,704,655
Un-Spent / Un-Awarded Balance-of-Project Estimate	\$15,157,321	\$15,157,321	\$15,157,321	\$15,157,321
Project Cost Estimate (PCE) for B&V Scope	\$530,168,521	\$530,168,521	\$530,168,521	\$530,168,521
FPL - Transmission Interconnections	\$75,383,000	\$75,383,000	\$75,383,000	\$75,383,000
FPL - Demolition & Abatement	\$8,000,000	\$8,000,000	\$8,000,000	\$8,000,000
FPL - B&V Performance Incentive	\$4,000,000	\$4,000,000	\$4,000,000	\$0
FPL - Maintenance Building / Geotech / Other	\$900,000	\$900,000	\$900,000	\$900,000
FPL - FGT Fuel Gas Equipment Reimbursement	\$0	\$0	\$0	\$0
FPL - Schedule Revisions ... Pending Cost Impacts	\$0	\$0	\$0	\$0
FPL - Project Contingency	\$0	\$3,548,479	\$18,450,957	\$28,450,957
TOTAL PROJECT ESTIMATES	\$618,451,521	\$622,000,000	\$636,802,478	\$642,802,478
TOTAL CONTINGENCIES INCLUDED IN THE ESTIMATES ABOVE	\$16,424,464	\$19,972,943	\$34,875,421	\$44,875,421

Docket No. 001148-EI
L. Kollen Exhibit No. (LK-13)
7/28/00 Sanford Cost Estimate

R. 11424

00421678

SANFORD REPOWERING SUCCESS CRITERIA

R. 11425

SAFETY

- PLANT DESIGN INCORPORATES SAFETY AND ERGONOMICS
- OSHA RECORDABLE RATE DURING CONSTRUCTION AND OPERATION - 0
- NO TRAFFIC ACCIDENTS AT BARWICK AND FORT FLORIDA ROAD INTERSECTIONS TO 17/92

ENVIRONMENTAL

- NO_x - 9 ppm (30 DAY ROLLING HOURLY AVERAGE)
- CO - 12 ppm (30 DAY ROLLING HOURLY AVERAGE)
- NOISE (AT "NEAREST RECEPTOR")
 - 60dB DAY (7am-10pm)
 - 55dB NIGHT (10pm-7am)
- NO NON COMPLIANCES DURING CONSTRUCTION

OPERATING*

- NET OUTPUT PER UNIT - 1009 MW (75F FOGGED)
- SINGLE EVENT LOAD LOSS
 - LESS THAN 910 MW
 - HOLD LEVEL FOR 10 MINS
 - DESIGNED TO HOLD LEVEL FOR 30 MINS
- TURNDOWN - 480 TO 1009 MW ON CONTROL
 - 280 MW MINIMUM IF CT'S CYCLE OFF
- RAMP RATE - 15 MW/MIN
- START UP DURATION TO ON-CONTROL @ 480 MW
 - 30MW 1HR AFTER START, RAMPING TO 480 MW
- COLD - 12 HRS
- WARM - 8 HRS
- AVAILABILITY TARGETS
 - EAF - 96%
 - POF - 2.8% (SEE O&M CRITERIA)
 - EFOR - 1.2%
- HEAT RATE - 6910 BTU/KWH HHV (75F FOGGED)
- DESIGN MUST FACILITATE PERFORMANCE TESTING AND PERFORMANCE MONITORING

FINANCIAL

- PROJECT COST - \$622M
- ECONOMIC DECISION CRITERIA (LOWEST LIFE CYCLE COST)
 - NPV TERM - 5 YEARS
 - HEAT RATE VALUE - 1BTU/KWH=\$128K
 - CAPACITY VALUE - 1KW=\$200
 - EAF VALUE - 1%=\$4M
 - O&M VALUE - \$100K ANNUAL
- \$425K NPV

O & M*

- CT OUTAGE FREQ/DURATIONS (BREAKER TO BREAKER - PMR BASED)
 - COMBUSTION - 12 KHRS/6.5 DAYS
 - HOT GAS PATH - 24 KHRS/13 DAYS
 - MAJOR - 48 KHRS/24 DAYS
- STM TURB FREQ/DURATIONS
 - UNIT #4 - CTYR 2011/60 DAYS
 - UNIT #5 - CTYR 2010/60 DAYS
- ON SITE STAFFING APPROX - 48 to 54
- ANNUAL BUDGET
 - CT OVERHAUL BUDGET - \$16M
 - O&M - \$5M

SCHEDULE

- STEAM UNITS OFF ON:
 - UNIT#4- 3/15/02
 - UNIT#5- 10/15/01
- GENERATION AVAILABLE BY:
 - UNIT#4- 12/31/02
 - UNIT#5- 6/30/02
- COST OF EACH DAY'S DELAY
 - \$250K/DAY REPLACEMENT PWR COSTS (500 MW)
 - \$2M/MO CAPACITY CONTRACT (500 MW) FOR 15% RESERVES

* PRELIMINARY ESTIMATES

1/11/00

00421533

5/9/01

POWER GENERATION DIVISION CASHFLOW RECAP

MAY 7, 2001 FIVE-YEAR FORECAST vs CURRENT APPROVED PGD PLAN

	2000 & PRIOR	2001	2002	2003 & AFTER	TOTAL PGD
<u>MAY 7, 2001 FORECASTS</u>					
FORT MYERS REPOWERING	\$362,439,397	\$71,504,448	\$21,004,755	\$2,353,940	\$457,302,541
✓ SANFORD REPOWERING	\$316,993,939	\$165,103,849	\$63,468,767	\$15,737,515	\$561,304,070
✓ MARTIN SIMPLE CYCLE	\$77,679,471	\$21,395,007	\$1,320,048	\$0	\$100,394,526
✓ FORT MYERS SIMPLE CYCLE	\$2,239,841	\$32,469,339	\$78,378,858	\$19,393,317	\$132,481,355
<u>PROJECTS TOTAL EXPENDITURES</u>		\$290,472,644	\$164,172,428	\$37,484,772	

CURRENT APPROVED 5-YEAR FORECASTS

FORT MYERS REPOWERING	\$71,533,736	\$14,943,298	\$5,223,111	Demo Begins Jan 2003 B&V Final Pmt of \$4m Payable in 2003
SANFORD REPOWERING	\$156,503,028	\$57,764,805	\$15,216,889	
MARTIN SIMPLE CYCLE	\$28,832,157	\$1,108,281	\$0	
FORT MYERS SIMPLE CYCLE	\$34,014,400	\$75,014,402	\$21,510,413*	
<u>PROJECTS TOTAL EXPENDITURES</u>	\$290,883,319	\$148,830,786	\$41,950,413	

* Incl \$1,299 in 2004

FORECAST DIFFERENCE TO APPROVED PLAN

FORT MYERS REPOWERING	(\$29,287)	\$6,061,457	(\$2,869,171)	Demo Begins June 2002 B&V Final Pmt of \$4m Payable Jan 1, 2003
SANFORD REPOWERING	\$8,600,823	\$5,703,962	\$520,626	
MARTIN SIMPLE CYCLE	(\$7,437,150)	\$211,767	\$0	
FORT MYERS SIMPLE CYCLE	(\$1,545,061)	\$3,364,456	(\$2,117,098)	CTG Payments Complete on Shipment(2002)
<u>PROJECTS TOTAL EXPENDITURES</u>	(\$410,675)	\$15,341,642	(\$4,465,641)	

R. 11426

00422009

Docket No. 001148-EI
 L. Kollen Exhibit No. (LK-15)
 Changes in Timing of Project Costs

**2001 MONTHLY FORECAST OF
BILLED SALES, CUSTOMERS AND USE BY CLASS**

	January	February	March	April	May	June	July	August	September	October	November	December	2002 Budget Forecast Total
SYSTEM SALES (mWh)													
Residential	3,874,869	3,763,017	3,237,987	3,539,323	3,629,189	4,763,609	4,990,310	5,203,464	5,237,201	4,832,118	3,720,704	3,768,114	50,378,908
Commercial	2,962,447	2,950,731	2,963,590	3,098,643	3,191,730	3,478,689	3,588,209	3,633,945	3,727,163	3,427,258	3,186,861	3,302,852	39,514,116
Industrial	337,106	336,413	340,075	339,639	339,318	338,800	338,648	338,576	338,141	338,461	338,292	338,155	4,061,622
Street & Highway	35,318	35,389	35,494	35,563	35,631	35,732	35,798	35,863	35,961	36,025	36,087	36,182	429,045
Other	4,363	4,731	4,614	4,890	5,083	5,670	5,953	5,870	5,970	5,024	5,203	4,987	62,359
Railroads & Railways	6,909	6,913	6,920	6,923	6,929	6,936	6,941	6,946	6,933	6,938	6,962	6,969	83,261
TOTAL JURISDICTIONAL SALES	7,221,012	7,096,194	6,610,681	7,024,985	7,207,881	8,629,437	8,965,860	9,224,663	9,351,388	8,645,843	7,294,109	7,457,239	94,729,311
Resale	73,387	70,890	72,329	77,589	81,987	86,753	126,064	128,697	129,962	127,335	119,843	112,054	1,207,289
TOTAL SALES	7,294,399	7,167,083	6,683,009	7,102,574	7,289,868	8,716,190	9,091,924	9,353,360	9,481,350	8,773,178	7,413,952	7,569,312	95,936,600
CUSTOMERS													
Residential	3,549,316	3,558,228	3,567,094	3,571,699	3,557,724	3,558,842	3,561,433	3,563,609	3,568,566	3,571,609	3,581,749	3,593,959	3,566,986
Commercial	431,945	433,350	433,911	434,906	436,372	434,461	434,937	435,897	437,145	437,896	438,772	440,057	435,804
Industrial	15,275	15,261	15,257	15,234	15,175	15,242	15,239	15,190	15,177	15,144	15,155	15,147	15,210
Street & Highway	2,499	2,504	2,511	2,516	2,521	2,528	2,533	2,537	2,544	2,549	2,553	2,560	2,530
Other	248	248	248	248	248	248	248	248	248	248	248	248	248
Railroads & Railways	23	23	23	23	23	23	23	23	23	21	23	23	23
TOTAL JURISDICTIONAL CUSTOMERS	3,999,307	4,009,613	4,019,043	4,024,646	4,012,063	4,011,345	4,014,413	4,017,504	4,023,704	4,027,470	4,038,499	4,051,994	4,020,800
Resale	3	3	3	3	3	4	4	4	4	4	4	4	4
TOTAL CUSTOMERS	3,999,310	4,009,616	4,019,046	4,024,649	4,012,066	4,011,349	4,014,417	4,017,508	4,023,708	4,027,474	4,038,503	4,051,998	4,020,804
USE PER CUSTOMER													
Residential	1,092	1,057	913	991	1,020	1,339	1,401	1,460	1,468	1,353	1,039	1,048	14,180
Commercial	6,858	6,809	6,835	7,125	7,314	8,007	8,250	8,337	8,326	7,827	7,263	7,506	90,669
Industrial	22,069	22,043	22,290	22,265	22,360	22,228	22,222	22,290	22,280	22,349	22,323	22,325	267,041
Street & Highway	14,134	14,131	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	169,603
Other	17,594	19,078	18,606	19,719	20,495	22,862	24,005	23,669	24,072	20,258	20,981	20,107	251,446
Railroads & Railways	300,380	300,570	300,871	301,087	301,277	301,580	301,797	301,987	302,288	302,501	302,692	303,009	3,620,041
TOTAL JURISDICTIONAL USE PER CUSTOMER	1,806	1,770	1,645	1,745	1,797	2,151	2,233	2,296	2,324	2,147	1,806	1,840	23,360
Resale	24,529,040	23,630,162	24,176,168	25,863,091	27,329,067	21,688,185	31,515,943	32,174,196	32,490,519	31,833,652	29,960,709	28,013,429	336,917,892
TOTAL USE PER CUSTOMER	1,824	1,787	1,663	1,765	1,817	2,173	2,265	2,328	2,356	2,178	1,836	1,868	23,860

**2005 MONTHLY FORECAST OF
BILLED SALES, CUSTOMERS AND USE BY CLASS**

2002 Budget Forecast

	January	February	March	April	May	June	July	August	September	October	November	December	Total
SYSTEM SALES (mWh)													
Residential	4,534,342	4,412,571	3,825,434	4,013,918	4,074,395	3,333,816	3,589,577	5,835,704	5,883,326	5,491,465	4,284,523	4,342,310	57,621,582
Commercial	3,233,659	3,255,765	3,293,143	3,477,164	3,523,384	3,817,493	3,949,330	3,960,190	4,052,804	3,695,584	3,442,604	3,594,030	41,294,149
Industrial	340,515	340,416	340,691	340,283	340,814	340,743	340,875	340,689	340,958	340,791	340,702	340,646	4,088,123
Street & Highway	37,980	38,027	38,108	38,154	38,200	38,280	38,326	38,371	38,450	38,494	38,538	38,617	459,544
Other	4,333	4,697	4,581	4,854	5,044	5,624	5,904	5,822	5,921	4,986	5,163	4,949	61,879
Railroads & Railways	7,021	7,025	7,032	7,037	7,041	7,048	7,053	7,057	7,064	7,069	7,073	7,080	84,600
TOTAL JURISDICTIONAL SALES	8,156,850	8,058,501	7,508,988	7,881,411	7,989,079	9,543,004	9,931,064	10,187,833	10,328,522	9,578,389	8,118,603	8,327,632	105,609,877
Resale	111,339	109,630	107,973	116,327	120,724	124,392	130,763	133,396	134,662	132,035	124,543	116,754	1,462,334
TOTAL SALES	8,268,185	8,168,131	7,616,962	7,997,738	8,109,804	9,667,396	10,061,827	10,321,229	10,463,183	9,710,424	8,243,146	8,444,386	107,072,411
CUSTOMERS													
Residential	3,749,897	3,758,581	3,767,194	3,767,531	3,760,293	3,761,234	3,763,769	3,765,755	3,770,567	3,773,465	3,783,668	3,795,965	3,768,160
Commercial	467,310	468,043	469,081	470,349	471,606	472,131	472,543	473,185	473,775	474,348	475,454	476,370	472,816
Industrial	15,217	15,219	15,220	15,221	15,219	15,219	15,220	15,220	15,221	15,222	15,224	15,226	15,221
Street & Highway	2,687	2,691	2,696	2,700	2,703	2,708	2,712	2,715	2,720	2,724	2,727	2,732	2,710
Other	248	248	248	248	248	248	248	248	248	248	248	248	248
Railroads & Railways	23	23	23	23	23	23	23	23	23	23	23	23	23
TOTAL JURISDICTIONAL CUSTOMERS	4,235,382	4,244,804	4,254,462	4,256,071	4,250,091	4,251,563	4,254,519	4,257,146	4,262,554	4,266,029	4,277,343	4,290,564	4,258,377
Resale	4	4	4	4	4	4	4	4	4	4	4	4	4
TOTAL CUSTOMERS	4,235,386	4,244,808	4,254,466	4,256,075	4,250,095	4,251,567	4,254,519	4,257,150	4,262,558	4,266,033	4,277,347	4,290,568	4,258,381
USE PER CUSTOMER													
Residential	1,209	1,174	1,015	1,065	1,084	1,418	1,485	1,550	1,560	1,455	1,132	1,144	15,292
Commercial	6,918	6,956	7,020	7,393	7,471	8,086	8,358	8,369	8,554	7,791	7,241	7,545	91,722
Industrial	22,377	22,368	22,384	22,357	22,394	22,389	22,397	22,384	22,401	22,389	22,380	22,372	268,592
Street & Highway	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	14,134	169,603
Other	17,473	18,940	18,473	19,573	20,339	22,678	23,807	23,475	23,873	20,105	20,819	19,956	249,511
Railroads & Railways	305,245	305,448	305,747	305,958	306,142	306,436	306,646	306,831	307,126	307,338	307,524	307,828	3,678,270
TOTAL JURISDICTIONAL USE PER CUSTOMER	1,926	1,898	1,765	1,852	1,880	2,245	2,334	2,393	2,423	2,245	1,898	1,941	24,800
Resale	27,833,772	27,407,472	26,993,332	29,081,770	30,181,124	31,097,882	31,690,757	33,349,069	33,665,451	33,008,653	31,135,746	29,188,501	365,633,530
TOTAL USE PER CUSTOMER	1,952	1,924	1,790	1,879	1,908	2,274	2,365	2,424	2,455	2,276	1,927	1,968	25,144

R. 11428

00100650

10/18/01
2002 Alt Forecast

2001 MONTHLY FORECAST OF
BILLIED SALES, CUSTOMERS AND USE BY CLASS

	January	February	March	April	May	June	July	August	September	October	November	December	Total	
SYSTEM SALES (mWh)														
Residential	3,879,514	3,697,859	3,150,637	3,361,977	3,563,562	4,522,773	4,748,487	5,083,559	4,947,172	4,651,004	3,808,390	3,648,215	49,065,148	2.6%
Commercial	2,965,998	2,900,408	2,867,874	2,943,376	3,134,013	3,302,815	3,414,330	3,551,603	3,520,758	3,298,799	3,261,967	3,197,757	38,339,698	1.8%
Industrial	337,510	330,675	328,870	323,620	333,182	321,671	322,238	330,904	319,415	325,775	346,264	327,395	3,946,519	-3.7%
Street & Highway	35,361	34,786	34,324	33,781	34,987	33,926	34,064	35,051	33,970	34,674	36,938	35,031	416,892	-0.6%
Other	4,369	4,651	4,462	4,645	4,991	5,383	5,665	5,737	5,639	4,836	5,326	4,828	60,531	-10.1%
Railroads & Railways	6,917	6,795	6,692	6,578	6,804	6,586	6,605	6,788	6,568	6,697	7,126	6,747	80,903	-3.2%
TOTAL JURISDICTIONAL SALES	7,229,668	6,975,174	6,392,860	6,672,978	7,077,538	8,193,153	8,531,388	9,015,641	8,833,522	8,321,786	7,466,011	7,219,973	91,929,691	2.0%
Resale	73,587	70,890	72,529	77,589	81,987	86,753	126,064	128,697	129,962	127,335	119,843	112,054	1,207,289	21.9%
TOTAL SALES	7,303,255	7,046,064	6,465,388	6,750,567	7,159,525	8,279,906	8,657,451	9,144,338	8,963,484	8,449,120	7,585,854	7,332,027	93,136,980	2.2%
CUSTOMERS														
Residential	3,530,945	3,539,811	3,548,631	3,553,212	3,539,310	3,540,422	3,542,999	3,545,164	3,550,095	3,553,123	3,563,210	3,575,357	3,548,523	1.7%
Commercial	429,710	431,107	431,665	432,655	434,113	432,213	432,686	433,641	434,883	435,610	436,501	437,779	433,548	1.8%
Industrial	15,196	15,182	15,178	15,175	15,096	15,163	15,160	15,111	15,099	15,066	15,076	15,069	15,131	-2.1%
Street & Highway	2,499	2,504	2,511	2,516	2,521	2,528	2,533	2,537	2,544	2,549	2,553	2,560	2,530	3.3%
Other	248	248	248	248	248	248	248	248	248	248	248	248	248	-0.9%
Railroads & Railways	23	23	23	23	23	23	23	23	23	23	23	23	23	0.0%
TOTAL JURISDICTIONAL CUSTOMERS	3,978,621	3,988,875	3,998,256	4,003,830	3,991,311	3,990,597	3,993,649	3,996,724	4,002,892	4,006,639	4,017,611	4,031,036	4,000,003	1.7%
Resale	3	3	3	3	3	4	4	4	4	4	4	4	4	19.4%
TOTAL CUSTOMERS	3,978,624	3,988,878	3,998,259	4,003,833	3,991,314	3,990,601	3,993,653	3,996,728	4,002,896	4,006,643	4,017,615	4,031,040	4,000,007	1.7%
USE PER CUSTOMER														
Residential	1,099	1,045	888	946	1,007	1,277	1,340	1,435	1,394	1,309	1,069	1,020	13,827	0.7%
Commercial	6,902	6,728	6,644	6,803	7,219	7,642	7,891	8,190	8,096	7,572	7,473	7,304	88,478	0.0%
Industrial	22,210	21,780	21,668	21,259	22,070	21,214	21,255	21,898	21,155	21,623	22,967	21,727	260,823	1.3%
Street & Highway	14,151	13,893	13,668	13,425	13,878	13,419	13,449	13,813	13,351	13,604	14,467	13,684	164,799	-1.0%
Other	17,615	18,753	17,993	18,731	20,125	21,706	22,841	23,152	22,739	19,499	21,475	19,467	244,076	-6.6%
Railroads & Railways	300,740	295,444	290,957	286,000	293,829	286,332	287,172	295,145	285,548	291,161	309,825	293,368	3,517,525	-0.4%
TOTAL JURISDICTIONAL USE PER CUSTOMER	1,817	1,749	1,599	1,667	1,773	2,053	2,136	2,256	2,207	2,077	1,858	1,791	22,982	0.3%
Resale	24,529,040	23,630,162	24,176,168	25,863,091	27,329,067	21,688,185	31,515,943	32,174,196	32,490,519	31,833,652	29,960,709	28,013,429	336,917,892	2.1%
TOTAL USE PER CUSTOMER	1,836	1,766	1,617	1,686	1,794	2,075	2,168	2,288	2,239	2,109	1,888	1,819	23,214	0.5%

Docket No. 001148-EI
L. Kollen Exhibit No. ____ (LK-16)
Pre- and Post-September 11, 2001 Sales
Estimates for 2002 and 2005
Page 3 of 4

R. 11429

00100652

10/18/01
2002 Alt Forecast

2005 MONTHLY FORECAST OF
BILLED SALES, CUSTOMERS AND USE BY CLASS

	January	February	March	April	May	June	July	August	September	October	November	December	Total	
SYSTEM SALES (mWh)														
Residential	4,496,633	4,309,366	3,675,427	3,807,797	4,016,477	5,082,099	5,337,761	5,718,379	5,563,487	5,291,009	4,391,785	4,211,306	55,901,544	4.3%
Commercial	3,205,789	3,179,616	3,164,009	3,298,606	3,471,127	3,637,335	3,771,409	3,880,571	3,832,479	3,560,684	3,528,789	3,485,600	42,018,013	2.7%
Industrial	337,683	332,454	327,331	322,809	333,953	324,662	325,518	333,840	322,422	328,351	349,231	330,369	1,970,626	0.0%
Street & Highway	37,664	37,137	36,613	36,195	37,656	36,474	36,599	37,599	36,159	37,089	39,503	37,432	446,340	2.0%
Other	4,297	4,587	4,402	4,605	4,972	5,359	5,638	5,705	5,599	4,804	5,292	4,800	60,060	-0.3%
Railroads & Railways	6,962	6,861	6,756	6,676	6,941	6,715	6,735	6,915	6,680	6,811	7,250	6,866	82,169	0.5%
TOTAL JURISDICTIONAL SALES	8,089,051	7,870,021	7,214,538	7,476,688	7,875,125	9,092,643	9,483,661	9,983,009	9,767,026	9,228,747	8,321,851	8,076,393	102,478,753	3.5%
Resale	111,335	109,630	107,973	116,327	120,724	124,392	130,763	133,396	134,662	132,035	124,543	116,754	1,462,534	1.2%
TOTAL SALES	8,200,386	7,979,651	7,322,511	7,593,015	7,995,850	9,217,035	9,614,424	10,116,406	9,901,687	9,360,782	8,446,394	8,193,147	103,941,287	3.4%
CUSTOMERS														
Residential	3,717,464	3,726,073	3,734,611	3,734,946	3,727,770	3,728,703	3,711,216	3,733,185	3,737,955	3,740,828	3,750,942	3,763,133	3,735,569	1.7%
Commercial	463,268	463,995	465,024	466,281	467,527	468,047	468,456	469,092	469,677	470,243	471,341	472,250	467,934	2.6%
Industrial	15,085	15,087	15,089	15,089	15,087	15,088	15,088	15,088	15,089	15,090	15,092	15,094	15,089	-0.3%
Street & Highway	2,687	2,691	2,696	2,700	2,703	2,708	2,712	2,715	2,720	2,724	2,727	2,732	2,710	2.0%
Other	248	248	248	248	248	248	248	248	248	248	248	248	248	0.0%
Railroads & Railways	23	23	23	23	23	23	23	23	23	23	23	23	23	0.0%
TOTAL JURISDICTIONAL CUSTOMERS	4,198,776	4,208,116	4,217,691	4,219,286	4,213,358	4,214,817	4,217,743	4,220,352	4,225,713	4,229,158	4,240,374	4,253,481	4,221,572	1.8%
Resale	4	4	4	4	4	4	4	4	4	4	4	4	4	0.0%
TOTAL CUSTOMERS	4,198,780	4,208,120	4,217,695	4,219,290	4,213,362	4,214,821	4,217,747	4,220,356	4,225,717	4,229,162	4,240,378	4,253,485	4,221,576	1.8%
USE PER CUSTOMER														
Residential	1,210	1,157	984	1,020	1,077	1,363	1,431	1,532	1,488	1,414	1,171	1,119	14,965	2.6%
Commercial	6,920	6,853	6,804	7,074	7,429	7,771	8,051	8,273	8,160	7,572	7,487	7,381	89,795	0.2%
Industrial	22,385	22,036	21,694	21,394	22,267	21,519	21,575	22,126	21,368	21,760	23,140	21,887	263,148	0.3%
Street & Highway	14,016	13,803	13,579	13,408	13,932	13,467	13,497	13,849	13,365	13,618	14,487	13,707	164,730	0.0%
Other	17,328	18,497	17,749	18,568	20,049	21,608	22,734	23,003	22,575	19,371	21,340	19,354	242,176	-0.3%
Railroads & Railways	302,708	298,304	293,758	290,247	301,776	291,974	292,832	300,662	290,429	296,119	315,223	298,541	3,572,572	0.5%
TOTAL JURISDICTIONAL USE PER CUSTOMER	1,927	1,870	1,711	1,772	1,869	2,157	2,249	2,365	2,311	2,182	1,963	1,899	24,275	1.7%
Resale	27,833,772	27,407,472	26,993,332	29,081,770	30,181,124	31,097,882	32,690,757	33,349,069	33,665,451	33,008,653	31,135,746	29,188,501	365,633,530	1.2%
TOTAL USE PER CUSTOMER	1,953	1,896	1,736	1,800	1,898	2,187	2,280	2,397	2,343	2,213	1,992	1,926	24,621	1.6%

Docket No. 001148-EI
L. Kollen Exhibit No. ____ (LK-16)
Pre- and Post-September 11, 2001 Sales
Estimates for 2002 and 2005
Page 4 of 4

R. 11430

00100655

Florida Power & Light Company
Docket No. 001148-EI
OPC Third Request For Production of Documents
Request No. 89
Page 1 of 1

Q.

Please provide the agreement(s) between FPL and FPL FiberNet for the sale and purchase of FPL's fiber optic assets.

A.

There is no written agreement of purchase and sale for the transfer of the assets in question. The assets were transferred on the basis of two independent appraisals and pursuant to a release from the utility's mortgage and deed of trust.

ANDREWS & KURTH L.L.P.

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March 8, 2002

Via Federal Express

Ms. Blanca S. Bayo, Director
Division of the Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Review of the retail rates of Florida Power & Light Company,
Docket No. 001148-EI

Dear Ms. Bayo:

Enclosed are the original and 16 copies of the Answer Of South Florida Hospital and Healthcare Association To Florida Power & Light Company's Motion for Reconsideration Of Order No. PSC-02-0254-PCO-EI, and Motion For Oral Argument in the above referenced docket.

Please acknowledge receipt and filing of the above by stamping the duplicate copy and returning same in the enclosed self-addressed stamped envelope to the undersigned.

Thank you for your assistance in connection with this matter.

Very truly yours,

Mark F. Sundback

Mark F. Sundback
An Attorney For the Hospitals

Enclosures

cc: Counsel for Parties of Record

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FPSC-BUREAU OF RECORDS

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DISTRIBUTION CENTER
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re:)
Review of the retail rates of) Docket No. 001148-EI
Florida Power & Light) Date Filed: March __, 2002
Company)

ANSWER OF SOUTH FLORIDA HOSPITAL
AND HEALTHCARE ASSOCIATION
TO FLORIDA POWER & LIGHT COMPANY'S MOTION FOR
RECONSIDERATION OF ORDER NO. PSC-02-0254-PCO-EI
AND MOTION FOR ORAL ARGUMENT

To: Honorable Commissioner Braulio L. Baez,
Prehearing Officer

The South Florida Hospital & Healthcare Association ("the Hospitals") hereby answers and opposes Florida Power & Light Company's ("FPL") Motion For Reconsideration of Order No. PSC-02-0254-PCO-EI, Granting Motion To Compel (hereinafter "FPL's Motion") and FPL's companion Request For Oral Argument both filed March 1, 2002 in the captioned docket. Order No. PSC-02-0254-PCO-EI was correctly decided, notwithstanding FPL's dissatisfaction.

I.

FPL's Motion seeks rehearing of the Presiding Officer's February 27, 2002 determination that FPL should respond to two requests for production of documents involving FPL affiliates. FPL's Motion primarily relies upon several carefully-phrased assertions of its counsel. First, FPL argues that "information on unregulated affiliates that the SFHHA seeks does *not* affect FPL's rates or cost of service." FPL Motion at p. 2. Second, FPL asserts, without proof, that the requests in question "involve no assets or other consideration furnished by FPL." FPL Motion at p. 3. This assertion also is drafted with great care, as described below. FPL points to its diversification reports (FPL Motion at pp. 4-5) to argue that it has described dispositions of FPL's properties to "FPL affiliates or other entities in which an FPL affiliate has a financial

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interest." FPL Motion at p. 4. Each of the foregoing formulations, however, contains more than a few limitations that make them wholly inadequate, if not beside the point. Based upon the foregoing assertions, FPL attacks the Prehearing Officer's February 27, 2002 order by claiming that the order "fundamentally misapprehends the applicable law on discovery." FPL Motion at p. 2. Yet it is FPL's Motion, not the February 27, 2002 Order, that fails to address, much less apply, recent case law at the Commission, as shown in Part IV below.

II.

Adelphia Communications uses FPL property to conduct its business, and pays FPL for the right to use that property. Adelphia Communications, through its affiliates Adelphia Cable and Adelphia Business Solutions, pay rental for use of FPL facilities, as FPL has admitted in its Response to the Hospitals' Interrogatory No. 30. Revenue from Adelphia is credited against the jurisdictional cost of service of electric ratepayers. The lower the revenue from Adelphia, the more residual cost must be borne by FPL's ratepayers.

But Adelphia was not just another entity using FPL property. Adelphia also held interests in an entity called Olympus Communications, LP. Adelphia's other partners in the Olympus partnership were subsidiaries of FPL Group, Inc. operating under the name "Telesat." In a transaction in 1995, Telesat received general and limited partner interests and newly issued preferred limited partner interests in Olympus (see third page of Attachment A hereto, consisting of excerpts from Adelphia's Form 10-K).

According to Olympus:

The Company operates one of the largest contiguous cable systems located in some of the fastest growing markets in Florida. As of December 31, 1999, the Company's cable system (the "System") passed in front of 974,861 homes and served 651,308 basic subscribers. In addition to traditional analog cable television, the

Company offers a wide range of telecommunication services including digital cable television, high speed data and Internet access, electronic security monitoring, paging and telephony.

* * * * *

Cable television systems receive a variety of television, radio and data signals transmitted to receiving sites ("headends") by way of off-air antennas, microwave relay systems and satellite earth stations. Signals are then modulated, amplified and distributed primarily through fiber optic and coaxial cable to subscribers, who pay fees for the service.

* * * * *

The Company owns or leases parcels of real property for signal reception sites (antenna towers and headends), microwave facilities and business offices in each of its market areas, and owns most of its service vehicles. [Attachment B, consisting of excerpts from Olympus Communications 1999 Form 10-K.]

By late 1999, FPL Group sold 3.5 million shares of Adelphia common stock and had its interest in an unnamed cable limited partnership redeemed, for aggregate after-tax gains of more than \$160 million, according to FPL Group's 1999 Annual Report (p.44) (Attachment C hereto).

In early 2000, FPL conveyed to its wholly-owned affiliate FiberNet substantial assets involving, *inter alia*, fiber optic cables originally installed to assist in FPL's operation of its system. As FPL has freely admitted, FiberNet's "fiber optic network was originally developed in the late 1980s to provide internal telecommunications service to support company operations" (see Attachment D hereto). Since FPL's conveyance of the assets to FiberNet, FPL's revenues credited against the jurisdictional electric cost of service have fallen significantly. Additionally, throughout this period, FPL has been engaged in shedding millions of dollars of property to its non-regulated affiliate, Land Resource Investment Company ("LRIC"). See, e.g., Attachment E hereto. What is done by LRIC with the property, including renting or selling portions of it to third parties, is not disclosed in the diversification reports. Nonetheless, because once in the

hands of LRIC it technically is no longer an asset of FPL, subsequent dispositions of the property previously paid for by FPL ratepayers (1) would not be reported in the diversification report and (2) would not run afoul of the carefully-worded statement in FPL's Motion that the Interrogatories here at issue do not involve "assets . . . furnished by FPL." FPL Motion at p. 3.

III.

FPL's diversification reports contain truncated summaries of transactions between FPL and affiliates. What FPL's diversification reports do not tell us is the disposition made by the FPL affiliate of any right which the affiliate has received. For instance, FiberNet's disposition to others of the fiber capacity that was constructed in FPL's right of way is not described in the diversification report. Of course, Adelphia Communications, which emphasizes its reliance upon fiber optic networks, would find the FiberNet capacity attractive. Adelphia's system map (*see* Attachment F hereto) would appear to occupy the same route in Florida as much of FiberNet's network (*see* Attachment D hereto). Similarly, microwave facility users would find access to antenna located on FPL right of way valuable. LRIC, FPL's real estate-acquiring affiliate, holding millions of dollars of real estate in southern Florida previously paid for by FPL ratepayers, has the opportunity to transfer real estate, or lease space to third parties without reporting its transactions to this agency through the diversification report, or any other means, for that matter.

These circumstances mean that each one of FPL's assertions to support not producing the requested data are so limited as to be without practical value. The reporting of dispositions by FPL to its affiliates, in the diversification reports or elsewhere, is no assurance that value is not being conveyed from ratepayers to others. FPL's many business partners, who may not be

affiliates in the technical sense used in the diversification report, nonetheless represent vehicles through which to convey value.

Consider, for example, Adelphia Communications. Adelphia Communications is not operated by, and does not own, FPL or the FPL Group. On the other hand, for years Adelphia and FPL Group subsidiaries were partners in Olympus Communications. Olympus Communications, as noted above, has a very substantial presence in southern Florida. Whether through clearing rights of way which would be charged to ratepayers but which could benefit others using the right of way or by conveying property rights in lease or in fee to Adelphia, the FPL Group by means of controlling FPL could benefit Adelphia and Olympus in numerous ways that would not be reported in the diversification reports. As noted in Adelphia's disclosure statements, the "Company . . . leases parcels of real property for reception sites (antenna towers and headends), microwave facilities and business offices in each of its market areas"

Moreover, property conveyed to FiberNet (for example) and thence to Adelphia or Olympus, would not be tracked in the diversification reports once title was vested in FiberNet. Thus, FPL's carefully-phrased assertion concerning "dispositions of FPL property to FPL affiliates or other entities in which an FPL affiliate has a financial interest" (FPL Motion at p. 4) simply ignores what the FPL affiliate would do once it had acquired the property, paid for in the first instance by ratepayers. If the hand-off to a third party comes from an FPL affiliate rather than FPL, then the transaction is never reported in the diversification reports, and FPL's carefully-worded statement that is limited to actions by FPL may be true and meaningless for purposes of this dispute.

In arguing that it should not be compelled to respond to Interrogatory Nos. 32 and 33, FPL also asserts that "FPL did not participate in the referenced cable limited partnership,

whether through the contribution of assets or any other consideration.” FPL Motion at p. 5. What FPL fails to disclose is that Dennis Coyle, General Counsel of FPL as well as of the FPL Group, was on the Board of Directors of Adelphia Communications. See third page of Attachment G hereto. Moreover, Mr. Coyle served as President of “Cable GP, Inc.”, which in turn was a general partner in Olympus Communications, L.P. See fifth and sixth pages of Attachment B hereto. Cable GP’s address is 700 Universe Blvd., Juno Beach, Florida (*id.* seventh page). Certainly, placing an officer of FPL on the Board of Adelphia could be considered participation. But FPL does not reveal this connection, either in its pleading here or in its diversification reports. This is exactly the type of information that is pertinent to understanding whether a concert of interests existed between Adelphia and FPL, but which FPL apparently decided not to disclose to the Prehearing Officer.

FPL also qualifies its responses by declaring that it has responded with respect to each “entity in which . . . an [FPL] affiliate has a financial interest” (*see* FPL Motion at p. 5). Of course, this formulation ignores the fact that without directly owning a financial interest in an enterprise, one nonetheless may have significant complementary or mutual interests with other interest owners which drive certain types of behavior. *See, e.g., Midwest Gas Users Assoc. v. FERC*, 833 F.2d 341 (D.C. Cir. 1987). Where the economic interests of parties overlap, agencies do not ignore the potential for harm to ratepayers. *See Northwest Central Pipeline Corp.*, 44 FERC ¶ 61,200, *order on rehearing*, 44 FERC ¶ 61,434 (1988). In this case, FPL did not directly own a financial interest in Adelphia, but FPL did have common interests with Adelphia in furthering the financial welfare of their jointly-owned subsidiary, Olympus, which could be coordinated through FPL’s General Counsel, who served on Adelphia’s Board.

Perhaps the prize for carefully-limited drafting, however, must go to the assertion in FPL's Motion that the information sought by the Hospitals' Interrogatory Nos. 32 and 33 "does not affect FPL's rates or cost of service." FPL Motion at p. 2 (emphasis in original). Of course, the contention is framed in the present tense. Currently, FPL base rates are locked-in pursuant to the 1999 Stipulation (subject only to revenue sharing). Thus, it is entirely accurate (and equally unenlightening) to assert that the outcome will not affect FPL rates which now are in effect because, under the 1999 Stipulation, base rates cannot change due to a change in costs. Thus, FPL's assertion once again is a trap for the unwary.

FPL's challenge to the Interrogatories, because they would not affect FPL's cost of service or rates, misses the point for another reason. Interrogatory No. 33 simply asks for the identification of entities and the assets involved, and does not seek dollars and cents data concerning a transaction. Thus, FPL's assertion that *inter alia*, Interrogatory No. 33 will "not affect FPL's rates or costs of service" is correct in the sense that by itself, the response will not yield data that will allow one to set a rate. But when viewed as part of a large picture, Interrogatory No. 33 can contribute information that may affect jurisdictional rate base and revenue requirements. This fact demonstrates that the request is "reasonably calculated to lead to admissible evidence," which is the operative standard under Rule 1.280(b)(1), Florida Rules of Civil Procedure.

In contrast to the foregoing statements quoted from FPL's Motion, FPL also makes a number of statements that are simply incorrect, which FPL itself should know. Perhaps the most surprising example is FPL's contention that "the entities referenced in Interrogatory Nos. 32 and 33 . . . have no . . . connection" to FPL's rates or cost of service whatsoever. FPL Motion at p. 12. In fact, quite the contrary is true, notwithstanding FPL's "sworn information" to the

contrary. As outlined above, Adelphia Communications through its subsidiaries (such as Olympus Communications) pay rentals to FPL for use of FPL property. These rental revenues are properly credited against the jurisdictional electric cost of service. Of course, the amount of rental and the duration and scope of the rental arrangements - - and thus the revenue credit to be realized by FPL's electric ratepayers - - is directly affected by whether Adelphia and Olympus have access to property formerly paid for by FPL ratepayers but now in the hands of FiberNet, LRIC or some other FPL affiliate. Similarly, to the extent these entities, using facilities located in or on FPL right of way or property (e.g., microwave antenna on FPL towers; fiber optics in FPL right of way), are not charged the full cost or value of services they receive, that will affect FPL's jurisdictional electric rates by reducing the credit available to offset the cost of service. Notwithstanding FPL's "sworn statement," Olympus and Adelphia both have a direct connection to FPL's rates.

FPL's claims also are simply inconsistent with its conduct in the case. FPL maintains repeatedly that "FPL has not argued, nor would it, that information relevant to this proceeding is off limits merely because it is in the files [of an affiliate] rather than FPL." FPL Motion at pp. 2-3. Similarly, here FPL asserts that "FPL does not contend that information relevant to its rates or cost of service would not be discoverable simply because the information happens to be in the possession of its parents or affiliates." FPL Motion at p. 11.

Apparently, FPL expects the Prehearing Officer and parties to overlook the fact that these statements directly contradict FPL's objections that precipitated SFHHA's March 4, 2002 Motion To Compel. In that Motion, SFHHA seeks production of information (requested in, among other requests, SFHHA Interrogatory No. 49) concerning Olympus. FPL responded as follows:

FPL objects to this interrogatory on the grounds that it exceeds the proper scope of the Commission's inquiry about utility affiliates and/or the proper scope of discovery. As noted in FPL's objections to the South Florida Hospital and Healthcare Association's First Set of Interrogatories and Request for Documents, the jurisdiction of the Commission concerning the parent and affiliates of a utility is limited. See §§366.05(9) and 366.093(1) Fla. Stat. (2000). Moreover, *the scope of discovery from a party is limited to information and documents within the possession, custody or control of that party.* See e.g., *Southern Bell Telephone and Telegraph Co. v. Deason*, 632 So.2d 1377 (Fla. 1994).

Without waiving its objection, FPL states that it had no interest in or relationship with Olympus Communications, L.P. [Emphasis added.]

FPL's objection with respect to Interrogatory No. 49 is precisely what FPL's Motion states it would not do. It is difficult to attribute much credibility to a party that in one pleading maintains as a matter of policy it does not object just because information is in the files of an affiliate, when in another document FPL does precisely that. Moreover, FPL's statement that it has no interest in Olympus Communications obviously fails to acknowledge, much less disclose, that for years it owned a number of partners, including a general partner, in Olympus. Once again, FPL's disingenuous statements (ignoring the fact that its wholly-owned subsidiaries were direct owners of Olympus), do not encourage reliance upon the adequacy of FPL's disclosures.

IV

FPL's Motion largely ignores determinative recent case law from the Commission. A brief review of that case law suggests the reason why FPL overlooked those cases - - because they demonstrate that FPL's legal position is untenable.

In Order No. PSC-01-1444-PCO - EI the utility objected to an interrogatory that sought, *inter alia*, "information regarding contracts between [the utility's] affiliates and parties other than [the utility]" - - one type of data that corresponds to the information sought here by the Hospitals.

The utility contended that such contracts were not relevant to the proceeding. The party seeking to compel the responses outlined their theory of why the data would be relevant. The Prehearing Officer in that case granted the motion to compel.¹ FPL's Motion completely neglects to acknowledge the existence of this case, much less distinguish it from the matter at hand.

In PSC-01-1725-PCO-EI, the utility objected to producing documents that pertained to an affiliate. In that case (as in this case) the utility contended that the documents had nothing to do with the case before the Commission. OPC, filing its motion to compel, fashioned its relevance argument in part upon the absence of data regarding transactions at issue. The Prehearing Officer overruled the utility's objection and directed that the documents be produced.²

In like fashion, in PSC-01-2267-PCO-EI the utility was directed to produce documents in the possession of an affiliate. Production was ordered notwithstanding the utility's contention that the requesting party already had information (much like FPL's effort here to suggest that the diversification reports are an alternative to adequate discovery). As the Presiding Officer correctly noted in that case, the "discovery permissible under the Rules of Civil Procedure is broad."³

Instead of meeting these cases on the merits, FPL generally ignores them, referencing only one of them, and then in a footnote. The reason FPL ignores these cases may be that the decisions conflict with the arguments advanced by FPL. The recent Commission decisions

¹ In Re: Fuel and Purchased Power Cost Recovery Clause and Generating Performance Incentive Factor, Order No. PSC -01- 1444 - PCO -EI, 2001 Fla. PUC LEXIS 850 (July 5, 2001).

² In Re: Petition by Gulf Power Company For Approval of Purchased Power Arrangement Regarding Smith Unit 3, PSC-01-1725-PCO- EI, 2001 Fla. PUC LEXIS 983 (August 23, 2001).

³ In Re: Review of Florida Power Corporation's Earnings, Order No. PSC -01-2267--PCO-EI, 2001 Fla. LEXIS 1289 (November 19, 2001).

simply reflect the foundational grant of powers to this agency, which includes in Section 366.05 the authority to direct the production of "such reports or other data necessary to ensure that a utility's ratepayers do not subsidize non-utility activities." Section 366.05(9) ("Powers"). It would be hard to find much more explicit authority than this for mandating responses to the requests at issue. FPL's Motion does not acknowledge the existence of this statutory grant, much less argue why it is insufficient.

V.

FPL's Motion for oral argument also is wholly without merit. As the recent cases identified above (*i.e.*, Order Nos. PSC-01-1725-PCO-EI and PSC-01-2267-PCO-EI demonstrate, oral argument is unnecessary. FPL's position is quite clear - - it has no intention of producing information concerning affiliates' transactions, even when property originally acquired by FPL ratepayers is at issue. Further, delay may serve the interests of FPL, but will not serve the interests of justice. FPL's stonewalling, which includes making inconsistent representations about its conduct (*see pp. 8-9, supra*) has effectively delayed discovery for well over 40 days. Oral argument would only reward FPL for its acts.

VI. CONCLUSION

The bottom line of this dispute is that participants in FPL's first fully-litigated rate case in 18 years should not be engaged in parsing carefully-framed assertions of FPL's counsel to find how wordsmithing can forestall meaningful discovery and conceal facts. FPL's pleading conveys the unmistakable impression that FPL wants very badly to avoid disclosing certain information. If there is nothing to hide, why is FPL fighting this issue with such vigor? FPL's carefully-framed but incomplete responses have failed to disclose the fact that it for years owned several partners in Olympus Communications, that it placed its most senior lawyer on the Board

of Adelphia Communications, another partner in Olympus, and that Olympus, or other Adelphia affiliates, regularly have done significant amounts of business with FPL.

Clearly, the requested information is relevant, as the Prehearing Officer has already ruled and as again demonstrated above. FPL's verbal fencing designed to keep customers from determining for themselves whether abuses are taking place, is indefensible. FPL's tactics also help "run out the clock" on this proceeding as we move closer to the discovery deadline, which demonstrates why the procedural steps outlined in SFHHA's March 1, 2002 Motion To Compel are warranted.

VI.

WHEREFORE, for the foregoing reasons, SFHHA respectfully requests that FPL's Motion be denied and relief as requested in SFHHA's March 1, 2002 Motion To Compel be granted.

Respectfully submitted.



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ATTORNEYS FOR SFHHA

March 7, 2002

**CERTIFICATE OF SERVICE
DOCKET NO. 001148-EI**

I HERBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U.S. Mail to the following parties, on the 8th day of March, 2001.

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