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Electronic Filing

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b. Docket No. 070304-EI In Re: Petition for rate increase by Florida Public Utilities Company
Docket No. 070300-EI In Re: Review of 2007 Electric Infrastructure Storm hardening Plan filed pursuant to Rule 25-6.0342,F.A.C. submitted by Florida Public Utility Company

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of two pages.

e. The documents attached for electronic filing is Citizens' Post Hearing Brief

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In re: Petition for Rate Increase by Florida Public Utilities Company

Docket No. 070304-EI

In Re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C. submitted by Florida Public Utility Company

______________________________/

Docket No. 070300-EI

Filed: March 18, 2008

<u>CITIZENS' POST-HEARING BRIEF</u>

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Attorneys for the Citizens
of the State of Florida

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Rate Increase by Florida Public Utilities Company

Docket No. 070304-EI

In Re: Review of 2007 Electric Infrastructure Storm Hardening Plan filed pursuant to Rule 25-6.0342, F.A.C. submitted by Florida Public Utility Company
______________________________/

Docket No. 070300-EI

Filed: March 18, 2008

CITIZENS' POST-HEARING BRIEF

The Citizens of the State of Florida, ("Citizens") by and through their attorney, the Public Counsel ("OPC"), pursuant to and consistent with Order No. PSC-08-0118-PHO-EI, hereby file this Post-Hearing Brief. Numerous issues were either stipulated by the Parties prior to the hearing, dropped from the proceeding, or no position was taken by Citizens. As such, these issues will not be addressed in Citizens' Post Hearing Brief. These issues are as follows: 1-9, 11, 12, 14, 16-18, 21, 24, 25, 29-32, 34-37, 39-42, 44, 45, 49-52, 56, 60, 64, 66, 72, 73, 79-85, 87, 92-95, 100, 102, 103, 105, 106, 108, 110, 112, 121-133, 135, 136.

BASIC POSITION

FPU has overstated its need for a base rate increase by at least $2.9 million dollars. While FPU claims that it requires $5.2 million increase in rates to earn a fair rate of return and cover expenses, close scrutiny of FPU's Minimum Filing Requirements (MFRs) show that only approximately $2.3 million is needed for FPU to earn a fair rate of return on rate base, cover storm hardening, and to meet operation and maintenance expenses.

In addition to the cost of capital addressed below, Citizens are recommending numerous adjustments to the Company's request for increases for storm hardening, projected test year rate base and operating expenses. In general, FPU has taken the approach of asking for everything including the kitchen sink. The Company has even asked for recovery of items it has not implemented. Moreover, FPU has significantly overstated certain amounts which if left uncorrected would result in customers paying rates in excess of rates that would be reasonable and necessary to provide safe and reliable service. FPU has also failed to provide documentation sufficient to support the amounts of its requests or the need for the requested items, or both.

Due to these failings and other problems explained under the various issues, Citizens has identified numerous adjustments to FPU's proposed test year. While Citizens and the Company have had some fruitful negotiations and have been able to settle a good number of issues, we still have approximately 60 issues remaining including fall-out issues. We have resolved some tough items such as those relating to storm hardening, particularly the tree trimming issues and the pole replacement issues.

However, some other hard substantive issues remain including the following: 1) five adjustments for storm hardening; 2) nine adjustments for rate base; 3) four adjustments for cost of capital and 4) 19 adjustments for net operating expenses. Overall, Citizens have identified at least 40 substantive adjustments that are necessary and which reduce FPU's proposed rate increase.

One of the major areas of contention remaining is Cost of Capital. As Dr. J. Randall Woolridge testified, the appropriate return on equity (ROE) for FPU is 9.15% with an overall rate of return (ROR) of 7.01%. FPU has asked for 11.5% ROE which is overstated. This is primarily due to Mr. Robert Camfield's approaches for the Capital Asset Pricing Model (CAMP), Risk Primia (RP) and Realized Market Returns (RMR) model. His approaches rely on risk premium derived from historical stock and bond returns. Since the use of historical data is subject to a myriad of empirical errors, it serves to inflate the equity risk premium. Thus, Mr. Camfield's equity risk premiums are not in line with (1) advanced academic studies; (2) leading investment banks and management consulting firms; and (3) surveys of financial forecasters and corporate CFOs. As Dr. Woolridge testified, utilizing the appropriately weighted Discounted Cash Flow (DCF) and CAMP methodologies result in a 9.15% ROE for FPU. This result is in line with today's expected returns.

Further, Mr. Camfield in his testimony tied the short term debt rate to the federal fund rate. The federal fund rate had dropped significantly since the time testimony was filed in this case. The short-term debt rate should reflect today's current rate which may result in a slightly lower ROR. As Mr. Camfield acknowledged in his testimony, the current Federal Fund rate as of the hearing was 3.0%, which would result in a short-term debt rate of 4.08% utilizing the methodology set forth in his testimony. TR 234.

Based on our adjustments and recommended capital structure, FPU's request for an increase will be reduced significantly. Given that FPU's customers have recently experienced significant increases due to the new fuel contracts, the customers should not be subject to any additional increases unless absolutely necessary. Citizens ask the Commission to reduce FPU's requested increase in accordance with the adjustments outlined in this brief based on the testimonies of Citizens' witnesses: Mr. Hugh Larkin, Dr. Randy Woolridge, and Ms. Patricia Merchant.

ISSUES AND POSITIONS

ISSUE 10: Does the Company's Plan provide a reasonable estimate of the costs and benefits to the utility of making the electric infrastructure improvements, including the effect on reducing storm restoration costs and customer outages? [Rule 25-6.0342(4)(d)]

POSITION: *No. FPUC's Storm Hardening Plan has not complied with the cost benefit requirement of Order No. PSC-06-0781-PAA set forth in OPC's positions on costs for storm hardening and 10 point initiatives.*

DISCUSSION:

Citizens address in Issues 19, 20, 22, 23, and 26, the outstanding problems with FPU's storm hardening plan. With respect to these remaining issues, Citizens believe that the portion of the Company's Plan which addresses the distribution pole inspection program, the request for an additional joint/use position, the transmission inspection contract, and the PURC costs and travel, are not cost beneficial as proposed. Generally, the Company has failed to provide reasonable estimates for these proposed costs which are discussed in detail under the specific issues. Once Citizens' recommended adjustments are made, Citizens believe that FPU's plan will then be in compliance with the requirement of Order No. PSC-06-0781-PAA.

Many of the storm hardening plan issues have been resolved through agreement of the Parties. In particular, the proposed wood pole replacement program and the tree trimming program are resolved. Citizens believe that the Company's Plan for these stipulated issues now provides a reasonable estimate of the costs and benefits to the utility of making the electric infrastructure improvements.

ISSUE 11: Does the Company's Plan provide an estimate of the costs and benefits, obtained pursuant to subsection (6) below, to third-party attachers affected by the electric infrastructure improvements, including the effect on reducing storm restoration costs and customer outages realized by the third-party attachers? [Rule 25-6.0342(4)(e)]

POSITION: *The plan should be subject to the appropriate modifications proposed by Citizens to resolve Issue 19 set forth in the cost recovery for storm hardening and 10 point initiatives section.*

DISCUSSION:

As discussed in more detail in Issue 19, FPU has proposed a distribution pole inspection program which includes costs related to third party attachers. Citizens advocate removing that portion of the cost directly attributable to third party attachers from the costs recoverable from the ratepayer. Nevertheless, as witness Merchant testified, Citizens are not recommending any revenue adjustments, even though the current agreements may not include the costs for these new programs. TR 520, 521.

However, witness Merchant further noted that while Citizens recognize that the load calculation type of cost would be incurred for an inspection, the load calculation cost is driven more by third-party attachers. She testified that the ratepayers should not have to pay an incremental cost for an inspection that should be recovered from other attachers. TR 551. Since the cost of the new pole inspection program was not a historical cost and the contracts have not been revised lately that witness Merchant assumed these new incremental costs would not be in the current contracts. TR 553. She clarified that you cannot just look at the pole inspection expense and say if the revenues exceed this expense then the customers receive a benefit. It depends on what goes into the formula that is used to calculate the rates that the third party attachers pay. TR 554.

Based on Citizens' recommendation set forth in Issue 19, the costs for the distribution pole inspection program should be reduced by $8.46 per pole which is the cost directly related to joint use pole attachments. This deduction results in a rounded cost per pole inspection of $38, or a reduction of $25,467. TR 521. The pole inspection program should be further reduced by an addition 25% due to lack of an estimate which is addressed more fully in Issue 19.

ISSUE 13: Based on the resolution of the preceding issues, should the Commission find that the Company's Plan meets the desired objectives of enhancing reliability and reducing restoration costs and outage times in a prudent, practical, and cost-effective manner to the affected parties? [Rule 25-6.0342(1) and (2)]

POSITION: *No. FPUC's Storm Hardening Plan has not complied with the cost benefit requirement of Order No. PSC-06-0781-PAA set forth in OPC's positions on costs for storm hardening and 10 point initiatives.*

DISCUSSION:

For the remaining issues 19, 20, 22, 23, and 26, Citizens believe that the portion of the Company's Plan which addresses the distribution pole inspection program, the request for an addition joint/use position, transmission inspection contract, and PURC costs and travel, as proposed are not cost-effective methods for enhancing reliability and reducing restoration costs and outage times. Generally, the Company has failed to provide reasonable estimates for these proposed costs which are discussed in detail under the specific issues.

Once Citizens' recommended adjustments are made, Citizens believe that FPU's plan will then be in compliance with the requirement of Order No. PSC-06-0781-PAA. For those issues that have been resolved, Citizens believe that the Company's Plan for those stipulated issues now provide cost-effective methods for enhancing reliability and reducing restoration costs and outage times.

ISSUE 15: Has FPUC complied with the Commission's 10 point initiatives?

POSITION: *No. FPUC's Storm Hardening Plan has not complied with the cost benefit requirement of Order No. PSC-06-0781-PAA set forth in OPC's positions on costs for storm hardening and 10 point initiatives.*

DISCUSSION:

FPUC's Storm Hardening Plan does not comply with the cost benefit requirement of Order No. PSC-06-0781-PAA as set forth in OPC's positions on costs for storm hardening and 10 point initiatives. As noted above, the Company Storm Hardening Plan related to Issues 19, 20, 22, 23, and 26, addressing the distribution pole inspection program, the request for an additional joint/use position, the transmission inspection contract, and PURC costs and travel, are not cost-effective. Generally, the Company has failed to provide reasonable estimates for these proposed costs which are discussed in detail under the specific issues.

Once Citizens' recommended adjustments are made, Citizens believe that FPU's plan will then be in compliance with the requirement of Order No. PSC-06-0781-PAA. For those issues that have been resolved, Citizens believe that the Company's Plan for those stipulated issues now provides cost-effective methods for enhancing reliability and reducing restoration costs and outage times.

ISSUE 19: Should FPUC's request to increase Account 593, Maintenance of Overhead Lines, by $141,367 per year for distribution of pole inspections from an outside contractor be approved?

POSITION: *No. The requested distribution inspection cost of $141,367 includes $8.46 per pole directly related to joint use pole attachments which is not related to providing service to electric customers. Deducting this cost rounds to $38 per pole cost, for a reduction of $25,467. Moreover, the Company has not fully supported its requested expense by obtaining multiple estimates. The Commission should disallow 25% of the projected expense resulting in an additional reduction of $28,975, for a total expense of $86,925.*

DISCUSSION:

According to the Commission rules and orders, FPU was required to implement a wood pole inspection program and to file a storm hardening plan which outlined its proposed inspection program. As part of its inspection program, FPU included in its Over/Above Expense Schedule an incremental expense of $219,833 for an outside contractor and a new employee to implement its distribution pole inspection program. Based on clarification in FPU discovery response to Interrogatory No. 57, Witness Merchant noted that the Company would incur $141,367 per year for the outside contractor portion of the distribution pole inspection program ($46.35 per pole times 3,050 poles). TR 519.

As witness Merchant testified, in response to Document Request No. 72(c) asking for all documents supporting the Company's projected expense of $219,833, FPU only produced a single estimate prepared by Osmose Utilities Service, Inc. TR 519. Based on this single estimate, the Company derived the $46.35 per pole cost used in the Over/Above Schedule. However, the document itself did not contain any calculation or even a discussion of how the total inspection costs used by FPU were developed. TR 520. The Osmose estimate does contain a list of items which could be inspected on any pole and the costs for inspecting those items. (H.E. 49, Exhibit 72.2 Osmose Estimate) At his panel deposition, witness Mark Cutshaw identified the components of Exhibit 72.2 that were used by the Company to calculate the $46.35 amount. However, witness Merchant noted that based on the items identified, Mr. Cutshaw could not reach the same amount of $46.35, the original MFR amount. TR 520. The components witness Cutshaw identified in his deposition totaled $47.67 and included: External Treat $29.88, Sound and Bore $7.75, FastGate® Delivery $0.60, LoadCalc™ $7.26, CATV Attachments $0.60, Telephone Attachments $0.60, and GPS Reading: 3-10 Meter $0.98. TR 520.

As witness Merchant testified, since a portion of the cost of pole inspections is increased due to joint users, any costs directly caused by joint use attachments should not be paid by the ratepayers. TR 520. It is unreasonable to charge the ratepayers 100% for this expense because it benefits other users and is not directly related to the provision of electric service to electric customers. TR 520. As witness Merchant noted, Citizens are not recommending any revenue adjustments, even though the current agreements may not include the costs for these new programs. TR 521.

While witness Cutshaw stated at the hearing that irrespective of the attachments on the poles a load calculation would be done, in his deposition Mr. Cutshaw described the LoadCalc component "which would be an inspection of the loading on the pole, ..." (H.E. 30 -19, Cutshaw/Myers Deposition at p.55). He stated that the cable TV and telephone attachments are 60 cents each to collect the data on those attachments. Id. However, Ms. Merchant noted that the Company already knows what a pole's capacity is and what the pole is capable of holding when they put it up. TR 550. She stated that when subsequently inspected, the Company inspects the full load on that pole and that LoadCalc is calculating the amount of all the attachments on the pole. TR 550, 551. Therefore, she advised eliminating the LoadCalc because it was directly caused by other attachers (Cable and telephone) and since the Company has already spent money when they put up the pole to figure out what the pole's load is for the Company's own equipment. TR 551. The Company did not rebut this conclusion. As such, witness Merchant has recommended removing the costs of the LoadCalc™ $7.26, CATV $0.60 and Telephone Attachment $0.60. The requested distribution inspection cost should be reduced by $8.46 per pole which is directly related to joint use pole attachments. This deduction results in a rounded cost per pole inspection of $38, or a reduction of $25,467. TR 521.

In addition to the Company not fully deciding what inspection parameters that it wants to pursue, as noted earlier, it submitted only one rough estimate. TR 521. As acknowledged by witness Cutshaw in his deposition, the Company did not initiate a competitive bid process that would only take about one month. (HE 3-19, Cutshaw/Myer Deposition at p. 7-8). Mr. Cutshaw acknowledged in his deposition that there are contractors, other than Osmose, with whom the Company could contract with for inspections. (HE 3-19, at p. 7-8)

Because this is an item that the Commission has required as part of the storm initiative, it is important for the Company to comply with the Commission's directives. However, the Company has not fully supported its requested expense because it did not obtain multiple estimates or bids to justify the costs. Since the Company had not fully support its requested expense, Ms. Merchant recommended an adjustment to disallow 25% of the Company's projected expense resulting in an additional reduction of $28,975. TR 522. This results in a per-pole inspection cost of $28.50, with an incremental distribution pole expense of $86,925, ($141,367 less $25,467 less $28,975) allocated 100% to electric operations.

ISSUE 20: Should FPUC's request to increase Account 593, Maintenance of Overhead Lines, and Account 588, Distribution Maps, by a combined total of $99,375 for an additional employee and related travel expenses to handle joint use audits and pole inspections be approved?

POSITION: *No, the additional position should be approved but at a reduced salary of $58,930, with benefits of $15,321 (overhead rate of 26%, not 38%) resulting in $74,251, annually, and a $2,358 decrease. This position should be considered for the Northwest division and responsible for joint use audits, administering the pole inspection program and the safety coordinator. No travel expense is necessary since the position is in the Northwest Division; thus, the requested travel expense of $22,838 should be removed.*

DISCUSSION:

FPU has requested one new employee to handle joint use audits and administer pole inspections. TR 510. FPU asked for $76,609 for salary and benefits for this position with an additional $22,838 for travel for a total of $99,447. TR 510. The Company allocated this expense between joint use audits (22% or $20,909) and pole inspections (79% or $78,538). TR 510.

In its response to Interrogatory No. 57, FPU stated the new employee will be used to coordinate pole audits and inspections and will be involved in data collection and submitting required reports to the Commission. TR 511. However, as witness Cutshaw acknowledged, the contractors will provide the Company the information on the inspections. (HE 3-19, at p. 46) As witness Merchant noted, the Company's witnesses indicated the reporting requirements for 2008 would be very minimal because the Company did not perform a lot of the storm hardening activities in 2007. TR 511. Witnesses Cutshaw and Myers confirmed that they are currently responsible for these reports. (HE 3-19, p. 46)

Witness Merchant testified that it was her belief this position would not be filled unless the Company receives rate recovery from the Commission. TR 514. She noted that if there were such a pressing need for this position, the Company should have taken action on its own and filled the position. TR 514, 515. She asked what assurances do the ratepayers and the Commission have that the Company will in fact fill the position. TR 515. Witness Merchant noted that it was likely that this position would not be filled until June or later given the timing of the rate case. TR 515.

Witness Merchant further opined that the Company had only supported the need for one additional position to handle a combination of functions, and not one position for each function. TR 515. Therefore, Citizens recommend a new position to handle the combination of functions that the Company said they needed addressed. TR 515. Citizens recommended that this new position be added to the Northwest Division to handle the training, safety and pole inspection coordination for that division. TR 515. Even if the each of the functions cannot be handled by the same individual, the Company has only justified workload for one additional employee for these functions. The Company maintains the flexibility to changes the job functions of its employees to accommodate all these functions with the addition of the new position and make it work.

Citizens support the use of FPU's original requested salary for the joint use/pole inspection of $58,930, with benefits of $15,321 (26% overhead rate) for a total of $74,251, which is 100% allocated to electric. TR 515, 516. This results in a decrease of $2,358 due to the correction in the overhead rate.

In addition, the travel expense requested for the joint use/pole inspection position, now a combined position, should be eliminated. TR 516. As witness Merchant pointed out, each of the service territories is limited in size and certainly an employee located in each division will not incur incremental travel costs on a regular basis as originally projected by the Company. TR 516. Therefore, the Company's request for $22,838 for travel associated with the new combined position should be removed. TR 516.

ISSUE 22: Should FPUC's request for contractor expense of $18,540 in Account 566, for an additional expense for transmission inspections, be approved?

POSITION: *No, the Company has not adequately justified the level of the annual expense it would incur for the contractor expenses. The Company solicited one vendor and used this very rough estimate of the inspection costs to extrapolate the next five years. Because FPUC only submitted one rough non-binding, estimate, the Commission should disallow 25% of the requested cost for lack of support. An expense level of $4,635 should be disallowed and the allowed test year expense should be $13,905.*

DISCUSSION:

The Company included in its Over/Above Schedule an annual expense for hiring a contractor to inspect its transmission system. TR 517. Currently, the Company only conducts visual inspections of its transmission system and corrects items found during these inspections. TR 517. As part of its storm hardening plan, FPU now proposes a much more detailed level of inspection than has been done in the past. TR 516-517. The Company's estimate was based on estimated cost of $112,449 to complete a 6-year cycle of inspection, annualized to $18,540 to normalize the expense. TR 517. Again, FPU has not entered into a contract to perform these inspections and the contract negotiations will not begin until the Company knows the outcome of the rate case, as noted by witness Merchant. TR 517.

Witness Merchant testified that the Company's request was based on only one estimate from Pike Electric, Inc. dated November 7, 2006, with rates that were effective until December 31, 2006. As witness Merchant further noted, the Company could not definitively state how often the Company will inspect its system and did not provide the actual amounts that would be incurred each year. TR 518. While witness Merchant agreed with normalizing the expense over several years, she testified that the Company had not supported the level of expense that would be incurred in 2008. TR 518. Further, witness Merchant testified that she did not believe the Commission should set rates based upon one estimate. TR 518. As Ms. Merchant correctly pointed out, if the Company had solicited bids for this project or had received estimates from more than one vendor, a comparison could be made to determine if the amount requested was reasonable. TR 518.

Since transmission inspection is required at part of the storm initiative, it is important for the Company to comply. However, due to the Company's failure to obtain more than one estimate or bid for the transmission inspection, Citizens recommend disallowing 25% of the Company's projected normalized expense. TR 518. Therefore, $4,635 of the expense level should be disallowed and only $13,905 in test year expense should be allowed. TR 519.

ISSUE 23: Should the expense for an additional employee to handle joint-use audits be approved?

POSITION: *No, the additional position should be approved but at a reduced salary of $58,930, with benefits of $15,321 (overhead rate of 26%, not 38%) resulting in $74,251, annually, and a $2,358 decrease. This position should be considered for the Northwest division and responsible for joint use audits, administering the pole inspection program and the safety coordinator. No travel expense is necessary since the position is in the Northwest Division; thus, the requested travel expense of $22,838 should be removed.*

DISCUSSION:

As discussed in detail in Issue 20, Citizens advocate creating a new combined position to handle the several functions that the Company said they needed addressed. TR 515. Citizens recommend that this new position be added to the Northwest Division to handle the training, safety and inspection coordination for that division. TR 515.

As Citizens recommend in Issue 20, the new combined function position would use FPU's original requested salary for the joint use/pole inspection of $58,930, with benefits of $15,321 (26% overhead rate) for a total of $74,251, which is 100% allocated to electric. TR 515, 516. This results in a decrease of $2,358 due to the correction in the overhead rate. Citizens would eliminate the Company's requested $22,838 for travel associated with the new combined position because the new combined position would be situated in the Northwest Division. TR 516.

ISSUE 26: Should FPUC's request to recover increases travel and PURC costs be approved?

POSITION: In its filing, FPUC requested $25,750 for travel and PURC costs in the utility collaborative research projects. In a data response, the Company initially revised the cost down to $5,170 and at deposition, further reduced it to $832. Test year expenses should be reduced by $24,918 to reflect the actual amount that will be incurred by the Company.

DISCUSSION:

As witness Larkin noted in his testimony, FPU overstated their first estimate for PURC costs. Subsequently, FPU revised their estimate downward from $25,750 in its filing to $5,170 to in its deposition to $832 for PURC costs. TR 330. Mr. Cutshaw in his deposition conceded that the PURC fees based on the 2008 PURC budget would be approximately $870. (HE 3-19 at p. 43) FPU, thereafter, revised its request to $2,870, of which $2,000 was budgeted for Mr. Cutshaw to travel to the PURC meetings.

However, as Mr. Cutshaw acknowledged in his deposition he did not know whether the collaborative research project would continue for two years, three years, or twenty years. (HE 3-19 at p. 44) Given that it is unclear whether the travel associated with PURC will be recurring or not, Citizens have recommended disallowing the additional $2,000 annually for travel to PURC. Thus, Citizens recommend an adjustment of $24,918 to FPU's filing.

ISSUE 27: What adjustments, if any, should be made to rate base associated with the storm hardening Rule 25-6.0342 and 10 point initiatives requirements?

POSITION: *The Parties have stipulated Issues 16 and 17. Since an average of one transmission pole will be replaced each year, only the rate base should be increased for the amount of the transmission pole. Based upon recent cost information provided in rebuttal testimony, the increase should be in the amount of $20,000 and a full 13 month average for the test year should be allowed for recovery.*

DISCUSSION:

The Parties have stipulated Issues 16 and 17. Since an average of one transmission pole will be replaced each year, only the rate base should be increased for the amount of the transmission pole. Based upon recent cost information provided in rebuttal testimony, the increase should be in the amount of $20,000 and a full 13 month average for the test year should be allowed for recovery.

ISSUE 28: What adjustments, if any, should be made to operating expenses associated with the storm hardening Rule 25-6.0342 and 10 point initiatives requirements?

POSITION: *The operating expenses associated with the storm hardening Rule 25-6.0342 and 10 point initiatives requirements should be adjusted in accordance with Citizens' adjustments and the stipulations for Issues 16-26.*

DISCUSSION:

The operating expenses associated with the storm hardening Rule 25-6.0342 and 10 point initiatives requirements should be adjusted in accordance with Citizens' adjustments and the stipulations for Issues 16-26. Citizen's adjustments are summarized below.

For stipulated Issues 16 and 17, the Company's proposed annual amortization of $354,600 relating to the wood pole replacement program should be removed. For stipulated Issues 14 and 18 relating to the tree trimming cycle and costs, the annual expense of $352,260 should be removed. For stipulated Issue 21, the Company's request should be reduced by $27,000 for post storm damage collection. The Company's request for $19,991 related to EOC personnel should be removed.

The Commission should reduce the requested incremental distribution pole expense by $54,442, allocated 100% to electric operations for Issue 19. For Issues 20 and 23, the Commission should reduce the costs for an additional employee and related travel expenses by $2,358 to correct the overhead rate and $22,838 for associated travel. The Commission should reduce the Company's request for the transmission inspection program by $4,635, and allow only $13,905 in test year expense for Issue 22. The Commission should reduce FPU's filing for the PURC fee and related travel by $24,918.

Based on all of the stipulated Issues, the operational expenses related to the storm hardening plan in the Company's filing should be reduced by $753,851. With the additional adjustments advocated by Citizens, the Company's filing should be further reduced by $109,191. This results in a total reduction of $863,042.

RATE BASE

ISSUE 33: Should the company's request to receive a full 13-month average recovery for a transformer that is not projected to be placed in service until the 2008 test year be approved?

POSITION: *No. The Company has not justified why the transformer should be given a full year recovery when it is projected to be placed into service April 2008 which would violate the test year matching concept. Plant and accumulated depreciation should be decreased by $243,077 and $5,013, respectively, with a corresponding decrease to depreciation expense of $5,925. Further, $22,162 should be removed for the cost of a temporary rental of a transformer that will no longer be incurred. *

DISCUSSION:

FPU has requested that it be allowed to recover the full cost of the transformer addition that will be added in 2008 as if the transformer had been placed in service as of December 2007. TR 496. This has the effect of considering this one item on a year-end basis as opposed to a required 13-month average basis consistent with its test year. TR 496. The Company argues that a full year should be allowed because the delays were beyond the Company's control, and the Company's need for a future rate would be accelerated. TR 496.

However, these arguments do not justify such departure from the test year concept of using a 13-month average. As witness Merchant testified, the proper ratemaking adjustment is to reflect this plant on a 13-month average basis in rate base based upon the date that the plant is put in service. She further noted that "[t]he test year matching concept provides that the average rate base is matched with average cost of capital, revenue, expenses, and customer billing factors. If you mismatch one of the individual components, the risks increases that the resulting rates will be skewed and unreasonable." TR 542.

As updated by witness Cutshaw, the Company is now projecting that the transformer will be in Fernandina by the middle to end of March 2008. He stated that once they get the transformer installed, the Company likes to give it a few days to warm up and make sure it is working. TR 708. Therefore, it is reasonable to conclude that barring any transportation delays, the earliest date it will be in service will be April 1, 2008. TR 708. The Company has estimated a cost of $790,000 with a full year of depreciation expense and accumulated depreciation of $23,700 and $11,850, respectively. TR 497. Based on the most recent in-service date, the 13-month average plant and accumulated depreciation are $546,923 and ($6,837), respectively, and the depreciation expense would be $ 17,775. Citizens recommend adjustments to decrease plant and accumulated depreciation of $243,077 and $5,013, respectively, and a corresponding decrease to depreciation expense of $5,925.

Company is currently using a temporary transformer until the new transformer is installed. TR 708. Witness Cutshaw conceded that upon the new transformer being put in place and tested over a period of a week or two, the rented transformer will be removed. TR 708. He agreed that the Company would no longer incur the rental cost associated with the temporary transformer. TR 708. As witness Merchant testified, the cost of the rental of the temporary transformer is a monthly cost of $2,140 for the AIP substation. TR 497. Witness Cutshaw admitted in his deposition that the annual rental cost of the temporary transformer had not been removed from the test year even through the rental cost will cease once the new transformer comes into service. TR 497 (HE 3-19 at p. 81). By leaving 12 months of the monthly rental cost in the 2006 test year expenses, the Company's filing included an annual rental expense for 2008 of $28,582 ($2,142 times 12 times 1.1130). Therefore, an adjustment is necessary to remove $22,162 of nonrecurring rental costs for 2008 [($2,382 x 12 months) minus (2,142 x 3 months)].

ISSUE 38: Is FPUC's requested level of Plant in Service in the amount of $78,641,581

POSITION: *No. Adjusted Plant in Service should be reduced by $219,129 to reflect a 13-month average balance of $79,422,452. Since this is a fall-out issue, it is subject to further revision based on the resolution of other issues.*

DISCUSSION:

Adjusted Plant in Service should be reduced by $219,129, to reflect a 13-month average balance of $79,422,452. This is a fall-out issue which it is subject to the adjustments of Citizens and stipulations of the Parties.

ISSUE 42: What adjustments, if any, should be made to accumulated depreciation to reflect the Commission's decision in Docket No. 070382-EI?

POSITION: *The adjustments that are approved in the Company's current depreciation study in Docket No. 070382-EI should be made to the rate case.*

DISCUSSION:

The adjustments that are approved in the Company's current depreciation study in Docket No. 070382-EI should be made to the rate case. TR 499.

ISSUE 43: Is FPUC's requested level of accumulated depreciation for Plant in Service in the amount of $35,667,257 for the December 2008 projected test year appropriate?

POSITION: *No. Accumulated depreciation should be reduced by $3,272 to reflect a 13-month average balance of $35,663,985. Further, the adjustments that are approved in the Company's current depreciation study in Docket No. 070382-EI should be made to the rate case. Since this is a fall-out issue, it is subject to further revision based on the resolution of other issues.*

DISCUSSION:

Accumulated depreciation should be reduced by $3,272 to reflect a 13-month average balance of $35,663,985. Further, the adjustments that are approved in the Company's current depreciation study in Docket No. 070382-EI should be made to the rate case. TR 499.

ISSUE 46: What is the appropriate projection methodology and balance of cash to be included in the 2008 working capital requirement?

POSITION: *Since FPUC has not shown that the substantial balances it is requesting are necessary for the day-to-day operations of its electric divisions, the amount of cash included in the working capital requirement should be $10,000. This reduces working capital by $60,678.*

DISCUSSION:

FPU maintains unusually large balances of cash in its bank accounts. TR 283. According to witness Larkin, FPU in the year 2006 allocated $247,509 of approximately $850,000 in average cash balances to the electric operations. TR 283. In 2007, the average cash balance balances were approximately $678,000, of which $210,108 was allocated to the electric operations. For the projected test year 2008, FPU's total Company average cash balance was $227,993, of which $70,678 has been allocated to electric operations for working capital requirements. TR 283.

However, as witness Larkin noted, the Commission in the past has reduced the Company's requested cash balances in its working capital requirement to a level which is more reasonable. He opined that the reduced level of cash is appropriate given the fact that working capital is designed only to provide the return on those funds necessary for the day-to-day operations of the utility. TR 283. Mr. Larkin advocated reducing the working cash requirement to $10,000, since FPU has not shown that the substantial working capital balance it is requesting is necessary for day-to-day operations. TR 283.

FPU witness James Mesite argued that the large cash balance must cover several factors, including payment of current accounts payable, employee net payroll, and various corporate taxes, withheld payroll taxes, and collected taxes. He further argued that a cash balance of $10,000 is not viable. However, Mr. Larkin explained, the cash balance for working capital is designed to meet the immediate needs of the company. TR 338. As Mr. Larkin pointed out in cross examination, if the Company was allowed only $10,000 in cash in the checking account, the Company would transfer the remaining cash to an investing account. TR 339, 340. Thus , the Company would earn an interest rate on that portion of its cash from the bank account and would not need to get an additional return from the ratepayer for cash in the working capital calculation. Based on Mr. Larkin's recommended $10,000 working capital cash balance, Citizen support a reduction of $60,678 to working capital. TR 283.

ISSUE 48: What is the appropriate balance of accounts receivable to be included in working capital?

POSITION: *The appropriate balance of accounts receivable is $4,011,791. Accounts receivable should be reduced by $302,140 because of jobbing, third-party damages owed to the Company and other below the line activities, including employee receivables, that are unrelated to the provision of electric service. Additionally, the Company has over projected Customer Accounts Receivable for 2008. The Company should use the 12-months ended August 2007 percentage of accounts receivable to revenue of 6.42% to project 2008, decreasing the 13-month average balance by $728,527.*

DISCUSSION:

FPU has overstated its Customer Accounts Receivable for 2008. The methodology employed by the Company to escalate the 2006 Customer Accounts Receivable for the 2008 projected test year resulted in a 46.4% increase from 2006 to 2008. Witness Larkin noted that the Company's explanation of the growth between 2006 and 2008 was based upon increased base rates and fuel costs. TR 285. As witness Larkin pointed out, the Company has projected the maximum increase in base rates in addition to whatever fuel rate it had assumed to arrive at the projected 2008 accounts receivable balance. TR 285.

In addition to the inappropriate escalation factor, the Company included balances in accounts receivables for items not directly related to the delivery of electric service. TR 285, 286. As specifically noted by witness Larkin, accounts receivable balances related to jobbing, third-party damages owed to the Company, and other activities (including employee receivables) are below the line and unrelated to the provision of electric service. TR 286. Ratepayers should not be required to pay a rate of return on receivable balances associated with non-regulated activities like jobbing or third-party damages. TR 286. Witness Larkin testified that these amounts were escalated to the

2008 test year in the manner discussed above. TR 286. Thus, the 13-month average of receivables in the year 2008 should be reduced by $302,140 ($206,380, escalated by approximately 46.4% to account for the difference between the 2006 13-month average of accounts receivables and the 2008 13-month average of account receivables).

As witness Larkin noted earlier, the Company's projected Customer Accounts Receivable for the year 2008 was calculated by escalating the 2006 balance by approximately 46.4%, which is inconsistent with how it projected sales growth. TR 287. Witness Larkin testified that a more appropriate method of projection is to recognize the historical relationship of accounts receivables to revenues. TR 287. Thus, the 12-months ended August 2007 percentage of accounts receivable to revenue of 6.42% should be used to project the accounts receivable balance in 2008, requiring a decrease to the 13-month average balance of $728,527. TR 287. Witness Mesite agreed that it appeared Mr. Larkin's analysis of the accounts receivable compares each year's accounts receivable. TR 639. Mr. Mesite also conceded that an analysis based on a relationship of accounts receivable to total revenues for the projected revenue increases takes into account the fuel increases. TR 640.

The total reduction in accounts receivable should be $1,030,667 ($302,140 for other accounts receivable and the over projection of $728,527). The appropriate balance of accounts receivable is $4,011,791.

ISSUE 53: What is the appropriate balance of unbilled revenue to be included in working capital?

POSITION: *In response to OPC discovery, FPUC stated that it increased the historical 13-month average of unbilled revenue by 3.5% to project the 13-month average for 2008, but its projected balance reflects an increase of approximately 23.5%. To correct this apparent calculation error, the 13-month average balance of unbilled revenue should be reduced by $88,808.*

DISCUSSION:

Witness Larkin noted that the Company in its response to Interrogatory No. 9 stated that it increased the historical 13-month average of unbilled revenue by 3.4% to project the year ended 2007 and by 3.5% to project the 13-month average for 2008. TR

290. However, as witness Larkin explained, while it appeared that the Company increased unbilled revenue by 3.4% for the year 2007, for the year 2008, the Company increased the 13-month average by approximately 23.5%. TR 290.

The Company contended that an incomplete response was provided to Interrogatory No. 9. TR 625. Witness Mesite stated that the narrative of Interrogatory No. 9 should have indicated that the 2007 amount was increased by 3.5% plus an additional 20% to represent the anticipated increase in base revenue as a result of this rate proceeding. TR 625. However, as witness Larkin testified, while there would be an increase in unbilled revenue, it is difficult to tell what that increase would be because it is a factor of the number of days which remain unbilled at the end of the year, or the number of kilowatt hours that were not billed. TR 344. The Company has not justified its use of an additional 20% on top of the 3.5%, to project the 2008 unbilled revenues.

While the Company claimed that the mistake was included in its response to Interrogatory No. 9, Citizens contend it would be inappropriate to allow the additional 20% for 2008. Therefore, an adjustment to the 13-month average to reflect the 3.5% increase for 2008 should be made. This reduces the Company's unbilled revenue in the working capital calculation by $88,808.

ISSUE 54: What is the appropriate balance of temporary services to be included in working capital?

POSITION: *The appropriate balance is zero. The Company is not collecting sufficient amounts of money for temporary facilities or services to offset all the costs of providing that service. Ratepayers should not be required to subsidize these services. The temporary service debit balance of $16,961 should be removed from working capital with a corresponding increase to test year miscellaneous service revenues of $27,150 to reflect the amount written off since ratepayers would otherwise be subsidizing this service without the adjustment.*

DISCUSSION:

The Company included in working capital an amount which it called "Temporary Services." Witness larkin noted that the corresponding FERC Account is "Temporary

Facilities" which is used for plant installed for temporary use in utility service for periods of less than one year. TR 292. Witness Larkin testified that when the temporary facilities or temporary services balance is a debit as opposed to a credit, it indicates that the Company is not collecting a sufficient amount of money for temporary facilities or services to offset all the costs of providing that service. TR 292. Witness Larkin was questioned on cross examination regarding whether the amount should be allowed if the temporary service tariff would not allow the Company to collect anything other than what is in the tariff. He pointed out that the appropriate action for the Company is to raise the tariff, however, in any case the Company should not flow the cost into rates by taking the difference and charging it to ratepayers. TR 345, 346.

Every month that witness Larkin was able to examine, including the December 31, 2006, balance, the temporary service account had a debit balance. He noted that when the debit balance is written off, ratepayers will be subsidizing this service. As such, witness Larkin testified that he would not only remove the debit balance from rate base, but also increase the miscellaneous service revenue by the amount written off since ratepayers would be otherwise subsidizing the service without the adjustment. TR 293. Therefore, working capital should be reduced by $16,961 for temporary services and the miscellaneous service revenue should be increased by $27,150. TR 293.

ISSUE 55: Is the Company's working capital treatment of over and under recovery of fuel and conservation costs appropriate?

POSITION: *No. The Commission has a long-established policy which excludes under-recoveries and includes over-recoveries in the working capital requirement. The Company receives its rate of return on these assets through the fuel adjustment clause and conservation adjustment clause mechanisms, which add interest for any under-recovery. If the receivable is included in working capital when base rates are established, then ratepayers would pay a double return on these under recoveries. Accordingly, working capital should be reduced by $1,143,377 related to purchased-power under-recoveries.*

DISCUSSION:

The Company is requesting a deviation from the Commission's long standing policy of excluding under-recoveries of fuel costs and conservation expense from working capital requirements while including clause over-recoveries in working capital. TR 296. FPU essentially argues that the Commission's long standing policy is an unfair burden on the Company and penalizes them. TR 297. Witness Larkin testified that the Commission's policy is a well-reasoned policy implemented in the 1980s to properly reflect how and who should pay the carrying cost on over and under recoveries of fuel and conservation costs. TR 297.

Witness Larkin testified to the reasoning behind the policy. First, the revenues and expenses related to fuel and conservation are eliminated from the operating income statement in a rate case because they are recovered through separate mechanisms. TR 297. However, the over and under recoveries of these costs have to be treated differently in the working capital requirement so that the proper parties, the ratepayer or stockholder, respectively, receives or pays the proper return on the over or under recovery. TR 298.

If the balances of under recoveries are included in working capital, then the Company would receive a rate of return on these assets through the working capital in rate base and would also be earning a rate of return on these under recoveries through these clauses, as witness Larkin observed. Hence, if the receivable were included in working capital when base rates are established, then the ratepayers would pay a double return on these under recoveries. TR 298.

Witness Larkin testified that it would be inappropriate to exclude the over recoveries when calculating working capital as alternatively proposed by the Company. He noted that an over recovery is a liability on the Company's balance sheet and the Company has actually incurred an expense on the income statement. TR 299. Since the Company has use of the funds during the period of time that the over collection has occurred, an interest calculation is made and added to the amount returned to the ratepayer through the cost recovery mechanism. TR 299. He testified that if that liability were not included in working capital as a reduction to working capital, then the ratepayer would be, in effect, paying his own interest to himself, because the working capital would be higher by the amount of the funds that the Company actually had in its possession for use for working capital purposes. TR 299. He pointed out that the intent of the Commission's current policy is for the stockholders to pay the interest to ratepayers and that ratepayers not pay the interest to themselves. TR 300.

As witness Larkin opined, no facts or circumstances have changed that warrant a re-evaluation of the Commission's policy. Therefore, $1,143,377 related to under recoveries should be removed from working capital.

ISSUE 57:	Is FPUC's balance of Accrued Interest on Customer Deposits appropriate?
POSITION:	*No. The Company's projection methodology results in an understated balance of interest accrued on customer deposits. Using the actual 13-month average balance at September 30, 2007, the account should be increased by 8.6% to arrive at the December 31, 2008, balance of $77,133.*

DISCUSSION:

Witness Larkin reviewed FPU's working capital allowance for interest accrued for customer deposits and discovered that the Company's projection methodology results in too low of an interest accrued balance. TR 304. The actual 13-month average at September 30, 2007, was $71,025 which is an increase of 8.6% over the 13-month average for the period ended December 31, 2006. TR 304.

Witness Mesite's only rebuttal to Mr. Larkin's observation was to contend that the Company's projection methodology was correct. TR 630. However, Mr. Mesite did not address the discrepancy between the actual 13-month average as of September 2007 and projected 13-month average of 8.6%. Nor did he propose any correction for this problem, like Mr. Larkin has suggested.

Based on Mr. Larkin's analysis, the actual 13-month balance for the period ended September 30, 2007, should be escalated by an additional 8.6% to arrive at the December 31, 2008, balance of $77,133. This results in an increase in this accrual of $10,178 over the Company's balance. TR 304.

ISSUE 58:	What is the appropriate balance of deferred debit rate case expense to be included in working capital?
POSITION:	*The appropriate balance of deferred rate case expense to include in working capital is $303,400, which reflects a reduction of

$304,836 from the Company's requested balance of $608,236. Adjustments are appropriate to reflect OPC's recommended balance of rate case expense and to allow one-half of the total rate case expense as a working capital allowance, consistent with the treatment afforded in the last FPU rate case.*

DISCUSSION:

The Company has requested a 13-month average balance for the amount of rate case expense it expected to incur through March 2008 of $622,000. The Company added an additional $106,000 to this balance for prior rate case expense as of January 1, 2008. TR 294. The Company calculated a monthly amortization and calculated the 13-month average balance arriving at a total of $608,236. TR 294.

Witness Larkin noted in the Company's prior rate case (Order No. PSC-04-0369-AS-EI, issued April 6, 2004) that the Company was allowed one-half of the total rate case expense as a working capital allowance. TR 294. Witness Larkin recommended using this same methodology in the current rate case. He pointed out that the ratepayers will be paying down the balance each month and, on average, one-half the balance would be outstanding. TR 295. He noted that rather than this being a penalty to the Company it is fair treatment to both the ratepayer and the Company. TR 295. The Company offers no argument why the Commission's policy should be changed.

Based on several adjustments explained in Issue 107, Mr. Larkin recommended that $522,000 in rate case expense be trued-up to actual. To this amount, witness Larkin added the balance of the unamortized prior rate case expense of approximately $84,800 for a total rate case expense of $606,800. Utilizing the Commission's policy of allowing one-half rate case in working capital, Mr. Larkin arrived at a working capital allowance of $303,400. This results in a reduction of $304,836. TR 296.

ISSUE 59: Is FPUC's requested projected 2008 balance for its storm damage reserve appropriate?

POSITION: *No, the appropriate balance for the storm damage reserve should be $1,818,548, reflecting an increase in the 13-month average credit balance of $8,871. This adjustment is the result of two errors. First, the Company has reflected a $50,000 reduction in the storm reserve in September 2007, which does not appear to be a storm related adjustment. Second, the Company started the test year calculation with the wrong balance at December 31, 2007.*

DISCUSSION:

The storm reserve is a reduction of working capital because FPU's storm reserve is not a funded reserve. Therefore, as witness Larkin noted, ratepayers must receive a reduction in capital cost on which they pay a return for the funds provided to the Company. First, the Company requested its annual storm accrual be increased by $82,260 from $121,620 to reflect a total of $203,880. As discussed in detail in Issue 101, witness Larkin explained that denying the requested increase should be denied which results in a reduction to the storm accrual of $82,260. TR 303.

Second, the Company miscalculated the 13-month average of the storm reserve balance. Witness Larkin noted that Company made its calculation using the wrong balance at December 31, 2007.

In addition, the Company reflected a $50,000 deduction to the reserve balance for 2007. TR 303. Witness Mesite conceded in cross-examination that the Company had no storms in 2007 justifying such an adjustment. TR 639. After correcting these two errors and removing the requested increase in the accrual, the 13-month average balance in the storm reserve should be increased $8,871. TR 303.

ISSUE 60: Is FPUC's requested level of Working Capital in the amount of a negative $1,310,654 for the December 2008 projected test year appropriate?

POSITION: *No. The appropriate balance of working capital should be (4,348,631). The company's requested balance should be reduced by $(3,037,977) *

DISCUSSION:

The appropriate balance of working capital should be (4,348,631). The company's requested balance should be reduced by $(3,037,977).

ISSUE 61: Is FPUC's requested rate base in the amount of $43,020,996 for the December 2008 projected test year appropriate?

POSITION: *No. The appropriate 13-month average balance of rate base should be $39,692,164, or a decrease of $3,328,833. This is a fall-out issue, subject to the resolution of other issues.*

DISCUSSION:

The appropriate 13-month average balance of rate base should be $39,692,164, or a decrease of $3,328,833. This is a fall-out issue, subject to the resolution of other issues.

COST OF CAPITAL

ISSUE 62: What is the appropriate return on common equity for the projected year?

POSITION: The appropriate return on common equity for the projected test year is 9.15%. Applying the Discounted Cash Flow Model (DCF) and the Capital Asset Pricing Model (CAPM) to the two groups of publicly-held utility companies identified by FPU results in a 9.15% ROE. FPU's equal weighting and use of historical data in its the four approaches (DCF, CAPM, Risk Premia, Realized Market Returns) has resulted in an inflated ROE of 11.5%.

DISCUSSION:

The appropriate return on common equity for the projected test year is 9.15% according to the modeling completed by Dr. Randy Woolridge. Applying the Discounted Cash Flow Model (DCF) and the Capital Asset Pricing Model (CAPM) as done by witness Woolridge to the two groups of publicly-held utility companies identified by FPU results in 9.15% ROE. TR 385 (HE 32- JRW-1). According to Dr. Woolridge, the DCF model provides the best indication of equity cost rates for public utilities and more weight should be given to DCF results than the other methodologies. TR 386, 402. While witness Woolridge stated he used a CAPM study, he gave these results less weight because he believes that risk premium studies, of which CAPM is one form, provide a less reliable indication of equity cost rates for public utilities. TR 402, 403.

The approach of using historical stock and bond returns as measures of expected returns to develop a risk premium is subject to a myriad of empirical errors which serve to inflate the equity risk premium. Dr. Woolridge did not solely utilize a historical risk premium approach because (1) ex post (historical) returns are not the same as ex ante (future) expectations, (2) market risk premiums can change over time, increasing when investors become more risk-averse, and decreasing when investors become less risk-averse, and (3) market conditions can change such that ex post historical returns are poor estimates of ex ante expectations. TR 420.

Witness Woolridge pointed out that current academic studies have shown that the large equity risk premium discovered in historical stock and bond returns cannot be justified by the fundamental data. He noted that these studies, which fall under the category "Ex Ante Models and Market Data," compute ex ante expected returns using market data to arrive at an expected equity risk premium. TR 420. Dr. Woolridge included in his exhibit JRW-10, a summary of the primary risk premium studies which examined four alternative measures of equity risk premium - historical, expected, required, and implied. TR 423, 424. He also used the "Building Blocks" approach which is a hybrid approach using elements of both historic and ex ante models. TR 424.

Dr. Woolridge reviewed the results of (1) the various studies of historical risk premium, (2) ex ante risk premium studies, (3) equity risk premium surveys of CFOs, Financial Forecasters, as well as academics, and (4) the Building Block approaches to equity risk premium. Based on the results reported for thirty studies, the average equity risk premium is 4.52% which Dr. Woolridge used as the equity risk premium in his CAPM study. TR 430, 431.

FPU's equal weighting of the results of the four approaches it used (DCF, CAPM, RP, RMR), resulted in an inflated ROE of 11.5%. TR 386. The primary reason is that Mr. Camfield's CAPM, RP, and RMR approaches are all based on risk premiums derived from historical stock and bond returns. TR 442. As discussed above, using only historical returns creates a myriad of empirical problems such as (1) biased historic bond returns, (2) the arithmetic versus the geometric means return, (3) unattainable and biased historic stock returns, (4) survivorship bias, (5) the "Peso Problem," (6) market conditions today are significantly different than the past, and (7) changes in risk and return in the market. TR 443, 444. Witness Camfield basically conceded in his rebuttal testimony that using only historical data has inherent problems, but rather than address them like Dr. Woolridge has, he testified that he chose to ignore them. TR 654, 655.

Because he used only historic data, Mr. Camfield's expected stock returns and equity risk premiums are not consistent with the equity risk premiums (1) advanced in recent academic studies by leading finance scholars, (2) employed by leading investment banks and management consulting firms, and (3) developed in surveys of financial forecasters and corporate CFOs. TR 387. Witness Camfield's base DCF estimates for the cost of equity results in an estimate of 9.30% (electrics) and 9.20% (gas companies) without the inclusion of the 33 basis point adjustment to account for floatation costs. TR 451. These results are significantly closer to Dr. Woolridge's overall results. Further, other state Commissions have recently approved ROE in the 9.0%-10% range (New Hampshire- 9.67%, Arkansas-9.9%, New York-9.1%, Texas-9.96%, and Connecticut-9.4%). TR 665-667 (HE 26). Witness Camfield conditionally agreed that the overall average ROE for 2007 was 10.36%. Moreover, the overall trend for ROEs approved by state Commissions in recent years has been to lower ROEs based on the changing market conditions (10.75% in 2004 to 10.58% in 2006). TR 671.

Furthermore, FPU also inflated its ROE recommendation by including inappropriate flotation cost and size adjustments. TR 386. Mr. Camfield's equity cost rate approaches included an explicit issuance or flotation cost adjustment of 6%. TR 438. As witness Woolridge noted, Mr. Camfield provided projected issuance costs which included a gross spread of 4.85% and other fees of 1.15%. Witness Camfield provided no justification, documentation, or source documents to support these fees which were requested; therefore, this adjustment should be rejected. TR 438.

Mr. Camfield also included a size adjustment for FPU based on historical data. TR 458. As noted by Dr. Woolridge, Ibbotson's size premiums are poor measures for any risk adjustment to account for the size of the Company. TR 458. Further, the size premium for utilities is not supported by recent academic analysis of size premium for utilities. TR 458. Essentially, the studies revealed that because of regulation, government oversight, performance review, accounting standards, and information disclosure, utilities are much different than industrials, which could account for the lack of a size premium. TR 459.

The appropriate return on common equity for the projected test year is 9.15%. The recommended 9.15% ROE is well within the range of current market conditions as evidenced by recent state commission decisions (New Hampshire- 9.67%, Arkansas-9.9%, New York-9.1%, Texas-9.96%, and Connecticut-9.4%). TR 665-667 (HE 26).

ISSUE 63: What is the appropriate capital structure for the projected test year?

POSITION: *The appropriate capital structure should be based on a thirteen month average.*

DISCUSSION:

The appropriate capital structure should be based on thirteen month average projections included in FPU's filing. The Company has not supported its requested deviation from using a matching 13-month average test year cost of capital and rate base with its use of a year-end capital structure reconciled to a 13-month average rate base. As witness Merchant testified regarding FPU's request for year-end treatment for the transformer, "[t]he test year matching concept provides that the average rate base is matched with average cost of capital, revenue, expenses, and customer billing factors. If you mismatch one of the individual components, the risk increases that the resulting rates will be skewed and unreasonable." TR 542. The same observations hold true for the Company's alternative request to adopt a year-end capital structure instead of the normal 13-month average capital structure.

The Company has not justified deviating from the standard 13-month average capital structure. While the Company used the 13-month average capital structure in its filing, it suggested that the year-end capital structure should be used because it was more reflective of the timeframe in which rates will be in effect. While some Company's have been allowed to use a year end approach, the Supreme Court in Citizens v. Hawkins, 356 So.2d 254 (Fla. 1978), identified the specific conditions which must be present to grant such an exception. The Court stated a year end approach is appropriate where use of an average rate base approach would distort the future picture such as when the company is experiencing extraordinary growth due to rapidly increasing demands for its services, as in periods of great population influx, or when other factor are forcing investment costs upward without a concomitant incremental revenues (known as attrition). Id. at 256. The Court stated that absent the most extraordinary or emergency conditions or situations, average investment during the test year should be the method employed by the Commission in determining rate base. Id. at p. 257. The Company has not pled or shown through the 2008 projections that it will be experiencing extraordinary growth or is subject to attrition.

Therefore, the Company's request for use of a year end capital structure should be denied. No adjustment is necessary since the Company utilized a 13-month average capital structure in its MFRs. Based on the 13-month average capital structure, the Commission should utilize the components, amounts, and cost rates associated with the capital structure for the test year ending December 31, 2008, discussed in detail in Issue 69.

ISSUE 65: What is the appropriate projected cost rate for short-term debt?

POSITION: *The appropriate projected cost rate for short-term debt is 4.08%. The Company's projected short-term debt cost rate of 6.81% was based on a Federal Funds rate of 5.25%. Since the time the Company filed its testimony, the Federal Funds rate was reduced to 3.0% (as of the hearing). Using the most recent Federal Funds rate results in the lowering the short-term debt rate.*

DISCUSSION:

Using the most recent Federal Funds rate results in a lower short-term debt rate. Applying the methodology proposed by witness Camfield in his direct testimony, the short-term debt rate has lowered significantly since he filed his direct pre-filed testimony. At the time the Company filed its direct testimony, witness Camfield projected a short-term debt cost rate of 6.81% based on a Federal Funds rate of 5.25%. TR 191. Dr. Woolridge, in applying Mr. Camfield's methodology several months later, arrived at a 5.81% rate based upon a reduced Federal Fund rate of 4.25% as of December 11, 2007. TR 394.

As of the hearing date, the Federal Funds rate has again been reduced to 3.0%. TR 232. Witness Camfield conceded that using the most up to date Federal Fund rate of 3.0% with a LIBOR at 3.18%, the Company's short-term debt would be approximately 4.08%. TR 234. The Commission should utilize the most recent Federal Funds rate which will result in a lower short-term debt rate as discussed at hearing. The appropriate projected cost rate for short-term debt is 4.08%.

ISSUE 67: What is the appropriate amount of accumulated deferred taxes to include in the capital structure for the projected test year?

POSITION: *The accumulated deferred taxes to be included in the capital structure should be $5,633,172 and no adjustments are necessary.*

DISCUSSION:

The accumulated deferred taxes to be included in the capital structure should be $5,633,172 and no adjustments are necessary.

ISSUE 68: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure for the projected test year?

POSITION: *The appropriate amount of unamortized investment tax credit to be included in the capital structure should be $75,957.*

DISCUSSION:

The appropriate amount of unamortized investment tax credit to be included in the capital structure should be $75,957.

ISSUE 69: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure for the test year ending December 31, 2008.

POSITION: *Two adjustments are necessary to the cost of capital related to the cost rate for short term debt and ROE. The overall fair rate of return is 7.01% for FPU. *

DISCUSSION:

Dr. Woolridge explained in his testimony that the Company has recommended conventional capital structure ratios based on a 2008 13-month average capitalization and included a projected common stock offering in 2008. TR 393. Witness Woolridge testified that the average capital structure of 50.41% was within the zone of reasonableness relative to the average common equity ratio for the electric proxy group at 48.04%. TR 393. Thus, Dr. Woolridge used FPU's proposed conventional capital structure and its inputs for regulatory capital structure, including customer deposits, deferred taxes, and investment tax credits. TR 393, 394. The only exception Dr. Woolridge made was to update the short-term debt rate in his testimony. TR 394. The short-term debt rate was further updated at the hearing as discussed in Issue 65.

Using FPU's filing and Dr. Woolridge's testimony, the appropriate capital structure for FPUC is as follows: Short-Term Debt is 4.43% capitalization amount and 4.08% cost rate; Long-Term Debt is 34.25% capitalization amount and 7.96% cost rate; Preferred Stock is 0.41% capitalization amount and 4.75% cost rate; and Common Equity is 39.74% capitalization amount and 9.15% cost rate. No other adjustments are necessary to customer deposits, deferred taxes, or investment tax credits (ITCs). The overall fair rate of return for FPU is 7.01%. As discussed in previous issues, the Company has used methodologies and adders with the purpose of increasing its ROE and thus increasing the overall ROR. Citizens' approach used the methodologies which accurately reflect current market conditions and fair return expectations. The Commission should adopt Citizens' proposed ROE and overall cost of capital as the well reasoned and equitable to both shareholders and ratepayers.

NET OPERATING INCOME

ISSUE 70: Should FPUC's request for recovery for an additional expense to inspect and test substation equipment costs to be approved?

POSITION: *No. FPUC has not provided documentation that supports an addition increase in the level of expense for inspection and testing of transmission substations. Account 562 (increased by 154%) should be reduced by $25,155 to $18,323. In addition, the Company's projected expense for Account 582 – Station Expense Inspection and Testing (increase by 112%) should be reduced by $49,600, which is $99,878 less the adjusted test year amount of $50,378.*

DISCUSSION:

As witness Larkin noted, FPU has requested increases for the two types of inspection and testing expenses. TR 312. The first type of inspection accounted for in Account 562- Station Expense, relates to substations which handle transmission line voltage. TR 312. FPU has asked for an additional increase in the expenses for inspection and testing of transmission substations (Account 562) of 154% from the 2006 amount of $17,124 to a projected 2008 amount of $43,478. TR 312. In addition, FPU also requested a 112% increase for Account 582 related to other types of inspection and testing for substations in the distribution system, from the 2006 amount of $47,082 to a projected 2008 amount of $99,878. TR 312, 313.

The Company originally provided only one generic document in support of its request that did not pertain to its specific needs; nor did FPU identify what it would implement as the necessary components of its own inspection and testing program. TR 313. Witness Cutshaw acknowledged that the original response to Citizens' request did not, in fact, contain any specific information relating to the program. TR 714. He contended that the up-dated information attached to his rebuttal testimony showed the equipment that needed to be maintained or tested on an annual basis and the cost and year in which it would be done. TR 714.

However, this document does not show why the Company has ask for 154% and 112% increase over 2006 for transmission and distribution substation inspections or why the current programs are not sufficient. TR 683 (HE 67, 68). He made a bare assertion that this new maintenance program ". . . will ultimately reduce the expected repairs that were necessary during 2006. . . ," but did not provide a dollar amount saved in 2006 or the number of repairs avoided in 2006 over previous years. TR 689.

These generic increases above the current inspection needs should be denied as unsupported. The 2008 projected test year amount for Account 562 for inspection and testing of transmission substations should be reduced by $25,155 to $18,323 ($17,124 escalated by compound inflation rate for 2007 and 2008). In addition, the 2008 projected test year amount for Account 582 – Station Expense Inspection and Testing - should be reduced by $49,600, to $50,378 ($47,082 escalated by compound inflation rate for 2007 and 2008).

ISSUE 71: Has the Company properly estimated an appropriate amount of forfeited discounts in calculating the revenues for 2008?

POSITION: *No. Other Operating Revenues should be increased by $48,919 to reflect an understated projection of revenues associated with late payment charges. There are at least three factors which will cause the Company's late payment fees to increase. The first is the Company's requested decrease in the time period for the payment of the bill. The second is the growth in the Company's bill as a result of higher fuel costs and delivery costs of energy. The third is customer growth.*

DISCUSSION:

As Witness Larkin testified that although the MFRs identify this account as "Forfeited Discounts," the Company's tariffs and actual accounting system correctly labeled this as a late payment charge. TR 305. Witness Larkin identified three reasons that the projected revenues for these late payments should have been greater than what the Company projected. TR 305. First, he noted that the Company's tariff sheets indicate it wants to change the 20-day grace period from the date of mailing or other delivery thereof, to the date the bill is generated. TR 305. Because the Company is requesting a shortened timeframe to their bills, late fees will increase. In addition, the bill increases due to the rate increases from the rate case and new fuel contracts will cause the late fees to increase. TR 305. The Company's tariff provides that the balance of all past due charges for services rendered are subject to a late payment charge of 1.5% or $5.00, whichever is greater, except the account of Federal, State, and local government entities, agencies, and instrumentalities. TR 305.

Witness Larkin testified that the actual late payment charges for the year 2006 were $354,696, which he escalated by 5% for each of the years 2007 and 2008 for a late payment fee of $391,052. This is an increase over the Company's projected amount for late payment fees of $342,133 by $48,919.

ISSUE 74: What is the appropriate projected test year miscellaneous service revenue?

POSITION: *Miscellaneous service revenues should be increased by $27,150 to reflect the removal of the debit balance of temporary service from working capital. This increase is appropriate so that ratepayers do not subsidize any of these services, in which revenues collected should fully offset the costs of providing that service.*

DISCUSSION:

In Issue 54, Witness Larkin pointed out that the balance for temporary facilities or services was insufficient to offset all the costs of providing that service. TR 292. He further testified that if the temporary service debit balance is written-off at the end of the year, ratepayers will be subsidizing this service, and in effect, will be required to provide a return on temporary services provided below cost. TR 293. To correspond with the removal of the temporary service debit, it is appropriate to increase the miscellaneous service revenues by $27,150. TR 293. This increase is justified so that ratepayers do not subsidize any of these services, in which revenues collected should fully offset the costs of providing that service. TR 293.

ISSUE 75: Is FPUC's projected level of Total Operating Revenues in the amount of $17,186,965 for the December 2007 projected test year appropriate?

POSITION: *No. The appropriate balance of Total Operating Revenues should be $17,263,034, which reflects an increase of $76,069 from the Company's requested amount of $17,186,965.*

DISCUSSION:

The appropriate balance of Total Operating Revenues should be $17,263,034, which reflects an increase of $76,069 from the Company's requested amount of $17,186,965.

ISSUE 76: What are the appropriate escalation factors and trend rates for use in forecasting the test year projected Operation and Maintenance Expenses?

POSITION: *FPU applied inappropriate trend rates. O&M expenses should be reduced by $36,691 to remove the customer growth component of the 14.1% factor applied and use a payroll only factor of 11.3%. Further, O&M expenses should be reduced by $65,491 to reduce the 7.0% combined inflation/customer growth factor applied to use the inflation only factor of 4.6%. Based on these adjustments, projected 2008 operation and maintenance expense should be reduced by $102,182 and taxes other than income should be reduced by $5,802.*

DISCUSSION:

FPUC applied inappropriate trend rates in several areas. As witness Larkin testified, the Company used various projection factors to project its historic test year operation and maintenance expenses. TR 322. He noted that thirteen accounts were escalated using a payroll projection factor of 5.5% per year, or 11.3% to go from 2006 to 2008. For twelve expense accounts, the Company used an inflation factor based on CPI, which resulted in a factor of 4.6% to go from 2006 to 2008. He pointed out that thirty-three expense accounts had a factor consisting of inflation times customer growth applied, resulting in a projection rate of 7.0% to go from 2006 to 2008. Finally, for twenty accounts FPU applied a factor of 14.1% to go from 2006 to 2008 consisting of payroll times customer growth. TR 322. Witness Larkin noted that the Company's application of these trend rates is inappropriate.

First, FPUC trended accounts that included both payroll and non-payroll costs using a payroll basis. TR 322, 323. The non-payroll components are overstated because payroll costs exceed the growth in inflation. TR 323. Witness Larkin did not have the information necessary to separate the various expense accounts between payroll and non-payroll costs in order to apply separate trend factors. TR 323.

Second, the Company used a combined payroll/customer growth factor on 20 accounts, including FICA payroll taxes. TR 324. This method overstates expenses because payroll increases do not directly correlate with customer growth. Witness Larkin testified that using a trending factor that includes payroll and customer growth, in addition to making specific adjustments for incremental positions, results in double-counting payroll costs. TR 324. O&M expenses should be reduced by $36,691 to remove the customer growth component of the 14.1% factor applied and use a payroll only factor of 11.3%. TR 324.

Third, a combined inflation/customer growth trend overstates expenses because customer growth has negligible impact on the 33 accounts to which the Company applied the combined factor. TR 325. Witness Larkin testified that the Company provided insufficient evidence to justify the application of the combined factor. TR 325. Numerous accounts were specifically increased through over/above adjustments to both 2007 and 2008, which double-counts increases associated partially with customer growth. TR 325. Further, he noted that the Company had not demonstrated that productivity increases and cost savings resulting from improved technologies would not offset the increase associated with customer growth and the growing industry trend of decreasing employee/customer ratios. TR 325. O&M expenses should be reduced by $65,491 to reduce the combined inflation/customer growth factor applied of 7.0% to use the inflation only factor of 4.6%. TR 326.

Witness Mehrdad Khojasteh's rebuttal testimony only argued that customer growth has an impact on the need for new employees and, therefore, the combination of factors such as customer growth and inflation are appropriate. TR 599. This is nothing more than a restatement of the position the Company took in using their trend rates in the first place. However, in further support of Citizens' adjustments to the trend rates, witness Larkin's analysis shows that actual O&M expenses annualized as of September 2007 are considerably less than the projected 2007 amounts contained in the filing. Based on the above, projected 2008 operation and maintenance expense should be reduced by $102,182 and taxes other than income should be reduced by $5,802.

ISSUE 77: Should the Company's requested position in Corporate Accounting for a Compliance Accountant for the audit of inventory, cash and other processes be approved?

POSITION: *No, while Citizens recognize that the additional position is needed, the total requested expense should not be approved. Half the proposed salary should be allowed since it will not be filled until the middle of the year. The excess 12% vacation/leave component of estimated benefits should be removed. Thus, 50% of the $60,000 salary with a 26% benefits overhead factor equals $37,800, with 40% allocated to the electric system for $15,120, resulting in a decrease of $17,760.*

DISCUSSION:

Witness Merchant noted that the Company requested a new position for a compliance accounting position to address special audits including inventory, cash and other processes. TR 527. Witness Merchant testified that based upon her review at the corporate offices and statements made by witness Martin in deposition regarding the long hours worked by current accounting staff, the new position was justified. TR 528. She further noted that Citizens had no disagreement with the proposed salary level of $60,000 plus benefits at 38% of $22,200 totaling $82,200 except for the removal of 12% vacation/leave component. TR 528, 529. However, the salary amount allowed in the rate case should recognize that the position will not be filled until after the completion of the rate case in May 2008. TR 528, 529.

While witness Martin testified that they had made an offer to fill the position and anticipated either having an acceptance of the position sometime in March 2008 or filling the void with temporary staff by April 1, 2008, the position still has yet to be filled. TR 134. As witness Martin conceded, the Company originally anticipated filling the position in January, 2008. TR 133.

As witness Merchant noted in her testimony, the hiring, planning, advertisement, interviewing and decision making process takes months to accomplish. TR 529. At the earliest, the new position would be filled in April 2008. However, it is not unreasonable to conclude that further delays may occur and the position may not actually be filled until July 2008. TR 529.

Thus, witness Merchant has recommended that 50% of the annual salary be allowed in the rate case. TR 529. This would result in $30,000 with a 26% benefits overhead factor added for a 2008 salary level of $37,800. Using a 40% allocation factor, the electric system share is $15,120. Based on this adjustment to electric, account number 920 should be decreased to $17,760. TR 529.

ISSUE 78: Should the Company's requested position in Customer Relations for a CR Analyst/Coordinator for work on SOX 404 Internal Control requirements be approved?

POSITION: *No. The Company failed to adequately justify the need for this position. First, in its response to OPC's discovery questions regarding this position, FPUC addressed another requested incremental position and never provided any support to demonstrate that this position was necessary. Second, if the need for this new position was so great, the Company should have filled it, which it has not as of yet. The over/above expense increase of $17,098 should be disallowed.*

DISCUSSION:

The Company requested a new position in its customer relations expenses labeled customer relations analyst/coordinator. TR 526. The Company asserted that this position was to meet the Sarbanes-Oxley Act internal control requirements. TR 526. In responding to discovery requests to explain the need for this position, the Company described the position as having the duties of the compliance audit accounting position and the needs of the accounting department. TR 527. Due to the Company's deficient response, no explanation was provided justifying the need for a new customer relations position. TR 257, 258.

Witness Merchant further testified that based on the Company's initial responses, even though it expected to hire for the position in January 2008, the position would not actually be filled until the rate proceeding was completed. TR 528. In fact, when questioned about the position at hearing, witness Martin acknowledged that the position had not yet been filled. TR 139. While she indicated that a temporary employee was working in that department, there was no supplemental discovery provided by the Company to indicate what dollars were associated with that temporary employee. TR 139. Witness Martin further acknowledged that the best estimate of when the position would be filled would be April 2008, even though she was unaware whether interviews had been done. TR 139. Moreover, the position had only been advertised since

December 27, 2007, the same day Citizens' filed testimony criticizing the Company's lack of action taken to fill these positions.

As witness Merchant pointed, out the hiring process takes months to accomplish. TR 529. Since the Company has not even interviewed for this position, the April 2008 hiring date is unrealistically optimistic. A July 2008 date for filling this position would be more realistic. Therefore, at a minimum, 50% of the requested salary of the $56,992 or $17,098 allocated to the electric division for 2008, should be removed. This would be a reduction of $8,549 to FPU request. However, as witness Merchant testified, the Company has never provided justification for the need for this additional position, either through its initial discovery response or through supplemental discovery. More telling, the position has not been filled to date, when the need for this position was identified at least as early as August 2007. TR 137, 530. Thus, the over/above expense increase of $17,098 should be disallowed. TR 530.

ISSUE 86: Should FPUC's requested increase in training expense for apprentice linemen be approved?

POSITION: *No. In its filing, the Company's originally included an over/above expense increase of expense increase of $54,354 ($27,127 for each division). Subsequently, the Company revised its request to $127,135, which includes the cost for a new trainer position with benefits. The Company has not justified either the original or revised request for training and the $54,354 increase should be disallowed.*

DISCUSSION:

In its filing, the Company's originally included an over/above expense increase of $54,354 ($27,127 for each division). TR 504. As witness Merchant noted, this request was estimated to provide new linemen training through the Tampa Electric Company lineman training program. TR 505. Through responses to Citizens discovery requests and rebuttal testimony, the Company has modified its training expense because it stated that the TECO training was no longer available and it decided to implement its own in-house training program. TR 505. According to witness Merchant, in response to Citizens' Interrogatory No. 45, the Company added a full-time trainer, travel for the trainer, noncapital training supplies, preparation costs of the training material, actual training material, and the cost of the state lineman program material, for a total expense adjustment of $127,135. TR 505, 506 (HE 3-7). Witness Merchant noted that the revised estimate also included additional costs for the State Lineman Program materials, which is the program that the Company currently uses for linemen training. TR 508.

In response to Citizens Interrogatory No. 45, no invoices or bids were provided to support these amounts, only internal company documents. TR 507 (HE 3-7) When Interrogatory 45 was subsequently up-dated with the complete slide presentation (originally 10 out of the 27 pages were provided), witness Merchant noted that other less costly options were available to the Company. TR 507. These include 1) having a dedicated lineman as a trainer in each division, 2) having a dedicated lineman as a trainer serving both divisions, 3) using supervisors as trainers, and 4) using all working foreman as trainers. TR 507. Witness Merchant pointed out that all of these options cost less then the $127,135 option reflected by the Company in its limited response in Exhibit 45.1. TR 507 (HE 3-7).

Other than the current state training program, witness Merchant noted that the Company has not hired the requested employee or implemented any new training program. TR 509. In addition, witness Merchant testified that whether the number of apprentices to be trained was 8, 11 or 13, a full-time dedicated trainer for this size Company did not appear to be necessary or cost-effective. TR 509. Witness Merchant also testified that, although the Company had initiated planning on how to improve its training program, she was not convinced that the best, cost-effective program had been fully addressed or analyzed. TR 509. Further, the Company has also not shown that its incremental adjustment for state linemen program materials had taken into consideration the 2006 material levels. TR 508.

Based on the above, the Company's requested adjustment for incremental training costs should be denied. OPC has recommended that the new position for pole inspections/joint use attachments be used as a part-time training coordinator. Accordingly, the Company's training expenses should only be escalated for inflation from the 2006 levels and no over/above adjustment for 2008 should be allowed. Thus, 2008 expenses should be reduced by $54,354. TR 510.

ISSUE 88: Should the Company's requested position in Corporate Services for a Corporate Services Administrator to assist in maintaining compliance be approved?

POSITION: *No, the need for this new position has not been shown or supported. In its response to OPC discovery, the Company stated that this position would be responsible for coordinating training programs, tracking training, assisting in safety and training, and other research. The cost in the over/above schedule reflected $33,280 being added in 2008 of which 28% or $9,318 was allocated to electric and should be removed from test year expenses.*

DISCUSSION:

Witness Merchant noted that the over/above schedule reflected an increase of $33,280 for 2008 of which 28% or $9,318 was allocated to the electric division for this requested new position. TR 514. In response to Citizens Production of Document No. 80, the Company stated the position would be responsible for coordinating training programs, tracking training, assisting in safety and training, and other research. TR 514 (HE 3-14). This is a request for a clerical position. TR 514.

As with other positions, witness Merchant noted that the position would not be filled until and unless the Company received rate recovery. TR 514. Witness Martin acknowledged the position had not been filled as of the date of the hearing. TR 141. Further, witness Martin did not know whether the position had even been advertised as of the hearing. TR 141. She acknowledged that safety staff is responsible for getting the work done, although they may be getting done on an overtime basis by managerial personnel. TR 141.

Citizens have stipulated to the addition of benefits for a full-time position for Fernandina, as well as a new position for Marianna, that will address safety issues. TR 515. Witness Merchant testified that it is imperative for the Company to take action on its own and fill these positions. She pointed out that ratepayers and the Commission have no assurance that the Company will in fact fill the positions if it had not even started the hiring process as of the hearing date. TR 515. She noted that the positions would not be filled until June or later based on the timing of the rate case. TR 515. At a minimum, 50% of the cost for a new clerical position which has yet to be advertised or filled should be removed resulting in a reduction of $4,659. However, as witness Merchant testified, the Company has not justified that it needs the additional clerical position, especially since they have not filled the position to date. TR 514. Thus, the expenses should be reduced by the electric's allocated share of $9,318.

ISSUE 89: Should the Company's requested increase for travel expenses related to the requested new position in Corporate Accounting for compliance accounting be approved?

POSITION: *No. The travel for the corporate accounting position should be reduced by 50% to reflect the adjustment made to the position salary. The position has not been filled and will likely not be filled until after the rate case conclusion. Thus, removal of 50% of the requested travel cost is appropriate. Thus, $2,600 should be removed from Account 921.5. *

DISCUSSION:

As witness Merchant noted, the corporate accounting position was justified. TR 528. However, she recommended adjusting the salary requested for the position by 50% (discussed in detail in Issue 77). TR 529. Similarly, the travel expenses related to this position needs to be reduced by 50% since the position will likely not be filled until July 2008. TR 529. Thus, $2,600 should be removed from Account 921.5.

ISSUE 90: Should an adjustment be made to Account 901, Operation Supervision-Administrative and General, related to the test year amount of moving expenses?

POSITION: *Yes, an adjustment is necessary to Account 901, Operation Supervision- Administrative and General. In 2006, FPUC paid $3,734 in moving expenses for a deposit on a rental house and two months rent for the new Northeast Division Manager. These costs were escalated for 2007 and 2008 for a total of $3,835. These costs are nonrecurring, and $3,835 should be removed from test year expenses.*

DISCUSSION:

Commission staff conducted an audit of FPU. Audit finding 11 related to moving expenses paid by FPU. TR 54, 329. Witness Welch, Commission staff auditor, noted the Company paid the moving expenses for the new division manager. In January 2006, the Company paid a deposit on a rental house and two months rent. TR 54, 329. As both witnesses Larkin and Welch testified, the $3,734.21 escalated to $3,835 for 2008, may not be recurring. TR 54, 329. Therefore, the $3,835 should be removed from the test year. TR 329.

ISSUE 91: Should an adjustment be made to Account 588.2, Other Distribution Expense, related travel expenses for an employee's spouse?

POSITION: *Yes, an adjustment is necessary to reduce Account 588.2, Other Distribution Expense, by $773 for non-utility travel expenses for the safety contractor's wife.*

DISCUSSION:

Commission staff conducted an audit of FPU. Audit finding 9 related to travel expenses paid by FPU for a spouse of an employee. TR 54, 329. Witness Welch, Commission staff auditor, noted the Company paid the travel expenses for the wife of the safety contractor, including $677.69 of airline expense. Account 588.2, Other Distribution Expense, was trended up by payroll and customer growth of 106.8% in 2007 and 106.8% in 2008 for a total of $773. TR 54, 328. As both witnesses Larkin and Welch testified, because this is not a utility expense, expense for 2008 should be reduced by $773. TR 54, 328.

ISSUE 97: Should the company's requested increase in customer information expense be approved?

POSITION: *No. Since customers are already aware of the significant fuel 2006 increase, it is not appropriate or reasonable to provide a significant increase in advertising expense from a low of $261 in 2005 to an escalated $159,543 for 2008. The advertising expense should be limited to an average of the actual expenditures over the last five years which is $44,757. This would result in a reduction to the 2008 test year other informational advertising expense of $114,786.*

DISCUSSION:

FPUC requested an increase in customer information expense to continue to provide the same type of advertising and information as provided in 2006 which is unreasonable and not supported. TR 309-311. As witness Larkin testified, the main increases in the informational advertising expenses for the years 2006 and 2007 were related to the dramatic fuel increases due to the expiration of the low cost purchase power contracts. TR 310. In the Company's responses to Citizens discovery Interrogatories Nos. 46 and 102, the expenditures were identified as mostly related to the fuel increase or otherwise advertising the Company's name at large gatherings. TR 310, 311. Prior to 2006, historic advertising costs were significantly lower. TR 310. As witness Larkin noted, the Company's expenditures were $1,037, $783, and $261, in 2003, 2004, and 2005, respectively. TR 310. Then in 2006, FPU incurred expenses of $121,226 and $100,476 year-to-date September 30, 2007. TR 310.

FPU in its response indicated it wanted to continue with the same type of advertising. TR 311. As witness Larkin noted, clearly the ratepayers are already aware of the significant fuel increases that occurred in 2006 and continued in 2007; therefore, it is not appropriate or reasonable to state the same message over and over again. TR 311.

Since customers are already aware of the significant fuel increase, it is not appropriate or reasonable to provide a significant increases in advertising expense from a low of $261 in 2005 to an escalated $159,543 for 2008. TR 310, 311. The advertising expense should be limited to an average of the actual expenditures over the last five years which is $44,757. This would result in a reduction to the 2008 test year other informational advertising expense of $114,786. TR 311.

ISSUE 98: Should an adjustment be made to FPUC's requested level of Salaries and Employee Benefits for the December 2008 projected test year related to the salary survey?

POSITION: *No. The Company's over/above increase "to bring salaries up to market based on a salary survey" should be denied. The Company admitted that a decrease of $23,205 to 2008 expenses was warranted. However, based on the salary survey submitted in response to OPC discovery, it was unclear what, if any, adjustments the Company would actually make. Thus, the Company's over/above salary adjustment for the salary survey should be removed, reflecting a decrease of $43,382 for the electric allocated portion.*

DISCUSSION:

Witness Merchant testified that the Company included in its MFR over/above schedule an adjustment based on an internal salary survey to bring non-executive salaries up to market. TR 534. The total adjustments related to the salary survey were increases of $49,980 for 2008. TR 534. At her deposition, witness Martin conceded that 2007 projected salaries were overstated. TR 534 (HE 3-18 at p. 110) Witness Merchant testified that her analysis of late-filed Deposition Exhibit 14 to the Martin/Khojasteh/Mesite panel deposition showed that at a minimum a decrease of $23,205 to the 2008 expenses was warranted to reflected the electric portion of the most recent set of salary survey numbers. TR 536.

Further, based upon the salary survey submitted in response to OPC discovery, it is unclear what adjustments the Company would actually make. Even if the Commission considers any adjustments that may be needed, the Company's proposed adjustments are to salary ranges, not immediate pay raises to employees. Even if granted, these salary increases would be for only part of the year. TR 536. As such, a full year of salary increase for the salary survey is unwarranted. TR 537. Lastly, the Company has stated in response to OPC discovery that actual amounts expended would depend upon amounts approved in the rate case, which concludes in May 2008. TR 537. Based on the above, the Company's over/above salary adjustment for the salary survey should be removed, reflecting a decrease of $43,382 for the electric allocated portion. TR 537.

ISSUE 99: Should the company's requested salary adjustment for executives be approved?

POSITION: *No. The Company included increases in executive salary expense for 2008 of $51,531. While the Company made an unsupported statement that the executive salary adjustment was being made over the last 3 years to bring the executives' pay more in line with the current market, the executives had already received a 21.5% increase from 2004 to 2006. Thus, the Company's 2008 over/above adjustment for executive salaries of $51,531 should be removed with a 40% electric allocation reduction of $41,225.*

DISCUSSION:

Witness Merchant testified that the Company included increases in executive salary expense for 2008 of $51,531. TR 531. She noted that when asked to provide copies of all documents to support its requested increase in executive salaries, the Company provided only a calculation of how the adjustment was made. TR 531. The Company's response to POD No. 82 indicated the executive salary adjustment was based on the last 3 years to bring the executives' pay more in line with the current market. TR 531. Witness Merchant noted that the 2006 salary levels (including incentives), were escalated from 2004 to 2006 by 21.5% (over a 2-year period), and should be assumed to be sufficient to bring the executives up to current market. TR 533. Further, witness Merchant testified that the Company has not provided any documentation to demonstrate that its executive salaries are below market for an organization of this size. TR 532. She also testified that the executives were taking the position that their salaries are more important than those of the lower rank employees. TR 532. This is evidenced by comparing the over/above salary increase for the executives of $51,530 versus the amount to bring the corporate/non-union employees up to market of $49,980. TR 532. As noted by witness Merchant, between 2004 and 2005, the normal merit raise was 5% and between 2006 and 2007, the normal merit raise was 5.5%. TR 533.

Beyond the 2006 actual levels, witness Merchant testified that the executive pay raises should be limited to the 5.5% merit pay raises that the Company gave its other employees and included in the projection factor for this account. TR 533. Thus, the Company's 2008 over/above adjustment for executive salaries of $51,531 should be removed. The electric allocation of this expense at 40% is a reduction of $41,225. TR 533.

ISSUE 101: What is the appropriate amount of annual storm expense accrual?

POSITION: *The Company has not justified an increase in the annual storm expense accrual. Based on recent storm expenditures, the accrual should remain at $121,620.*

DISCUSSION:

Witness Larkin testified that FPU requested to increase the annual storm accrual to $203,883, which is an increase of 67.6%. As witness Larkin noted, FPU based its requested increase on hypothetical replacement of 5% of the distribution and transmission system, or $3,338,800. TR 300, 301. The Company deducted the amount of the current unfunded reserve from the requested target and then divided that amount by eight years to arrive at its requested annual accrual of $203,883. This resulted in an $82,260 annual increase to the storm accrual. TR 300, 303.

However, witness Larkin noted that over the last 19 years, the maximum amount of storm damage incurred by the Company in any one year was only approximately 37% of the total reserve at the end of the prior year (2003) ($810,502/$2,200,651 =36.8%). TR 302. He testified that there was no indication that the storm reserve was not sufficient to cover any cost which the Company incurred. TR 302. He further testified that it was not reasonable to set storm damage accruals based upon a hypothetical scenario. TR 302, 303.

Witness Cutshaw conceded that the Company had conducted no formal studies or prepared any other documentation that reflected the projected risk and levels of storm damage that the Company might face in the future. TR 273. He acknowledged that FPU would have other recovery mechanisms available if a major storm were to hit and the reserve was insufficient. TR 272. He further acknowledged that if no storm hit FPU's system over the next eight years, with the present storm accrual amount, FPU would accumulate approximately 1 million dollars. This added to the current reserve amount would result in a $2.7 million storm damage reserve which he agreed would equate to 4% of FPU's transmission and distribution system. TR 274.

The Company has not justified an increase in the annual storm expense accrual. Based on recent storm expenditures, the accrual should remain at $121,620.

ISSUE 104: Should the projected 2008 economic development donations be approved?

POSITION: *No. FPU has historically spent $5,000 in economic development costs spent annually and it should be limited to this level. Further, FPU incurred costs for membership dues related to Opportunity Florida which FPU joined for networking and opportunities with other industries. Thus, this membership costs should not be charged to customers. The 2008 projected test year need to be reduced by $16,052.*

DISCUSSION:

FPU is requesting $15,701 for economic development cost. Witness Larkin noted that FPU has only spent $5,000 in each of the years 2003 through year-to-date 2007 (except 2004 where it spent nothing), even though it was allowed $22,641 in economic development costs per calendar year. TR 314, 315. Witness Larkin advocated FPU should not be allowed to recover more than what it has historically been spending. TR 315. FPU should be allowed to recover $5,000 for economic development. A reduction of $10,701 should be made to the Company's proposed 2008 test year amount. TR 315.

Commission staff conducted an audit of FPU. Audit finding 7 related Account 920.23, Economic Development, includes membership dues for Opportunity Florida. TR 53, 328. Witness Welch, Commission staff auditor, noted that the utility joined his organization for networking opportunities with other industries. TR 53, 328. She further noted that the $5,000 membership fee was trended up using inflation and customer growth of 103.4% in 2007 and 103.5% in 2008 or a total of $5351. TR 53. As witness Larkin testified, these costs should not be charged to ratepayers; thus, the projected 2008 expenses should be reduced by an additional $5,351. This reflects a total adjustment of $16,052 to economic development costs.

ISSUE 107: What is the appropriate total amount, amortization period and test year expense for Rate Case Expense for the December 2008 projected test year?

POSITION: *The appropriate total amount of rate case expense for the current case is $522,000. The Company's requested total should be reduced by $100,000 due to the Company's inclusion of several requests that were not appropriate rate case expense. Unamortized prior rate case expense of $84,811 should be added to the current amount for a total of $606,811. The annual amortization expense over four years results in $152,000. This reduces the Company's requested annual amortization by $30,000.*

DISCUSSION:

As witness Larkin testified in the companion Issue 58, the appropriate total amount of rate case expense for the current case is $522,000. TR 309. The Company's requested total should be reduced by $100,000. TR 309. Witness Larkin identified several requests that were not appropriately included as rate case expense. TR 307.

First, witness Larkin noted that the Company has a fixed-rate contract with Christensen Associates for $165,000 for rate case preparation. TR 307. The Company requested an additional $45,000 for extraordinary costs over and above the fix contract amount which should be removed. Those costs are the responsibility of the Company since the rate case analysis was completed and filed timely. TR 307. While witness Martin contended that the additional costs were caused by the extra work done by the Company, she never provided documentation that demonstrated this additional work was outside the scope of the original contract. TR 598. She claimed that nobody had specifically asked her for a breakdown of additional work. However, the information was requested through Citizens' discovery, such as Citizens' Interrogatory No. 13:

> 13. Provide an itemization list of Account 1860, Deferred Debit-Rate Case Expense for each of the years 2006, 2007 and 2008.

(HE 3-7). Even though she claimed that the work was outside the scope of the fix-rate contract, one would have to question why you would have a fix-rate contract for only a portion of the reasonably expected rate case work such as responding to discovery. TR 598.

Next, witness Larkin pointed out that the Company's request for $30,000 for work labeled internal audit work must be removed because it is not directly related to the rate case filing. TR 307. Only those costs which are directly related to the preparation, filing and testimony before the Commission are legitimate rate case expenses. TR 307. Witness Larkin stated that to argue that there are some extraordinary costs incurred by the Company as a result of the filing and that the ratepayers are responsible for that cost is egregious. TR 307. He further advocated that for the Company to argue that its personnel were too busy preparing the rate case that they could not do other work does not justify including this type of cost as rate case expense. TR 307. During cross-examination, witness Larkin pointed out that you cannot add non-rate case expense to rate case expense based on a 'but for the rate case we would not have incurred this non-rate case expense' argument, because nobody can ever verify that or determine whether that was true or not. TR 349.

Lastly, witness Larkin testified that the Company's request for $25,000 for "Salaried Overtime Pay for Extraordinary Work Load" for salaried employees needs to be removed. TR 308. Witness Larkin noted that salaried employees are employed with the understanding that their work would not be limited to 40-hour work week and would be based on the requirements of the job. TR 308. When questioned whether the salaried employees had been paid for additional overtime, witness Martin said they had not but would be paid the first week in March. TR 599. She conceded that it was not overtime per se, but rather additional compensation for work that was required on this rate case. TR 599. Witness Larkin further noted that substantially all the work load of preparing schedules and analysis was borne by the outside consultants. TR 308.

Therefore, witness Larkin is recommending removing the $45,000 additional Christensen Associate costs, the $30,000 for internal audit work, and the $25,000 for overtime pay. TR 308. The unamortized prior rate case expense of $84,811 should be added to the current amount for a total of $606,811. TR 309. The proper amortization period is four years and results in annual amortization expense of $152,000. This reduces the Company's requested annual amortization by $30,000. TR 309.

ISSUE 109: Should an adjustment be made to uncollectible expense in Account 904, Uncollectible Accounts, for the December 2008 projected test year?

POSITION: *Yes. Account 904, Uncollectible Accounts for December 2008 projected test year should be reduced by $145,485. The Company has overstated the bad debt expense. Applying proper historical write-offs net of recoveries as a percentage of total revenues using the last five years yields a bad debt write off percentage of 0.11552%. When this factor is applied to the Company's projected revenues in the year 2008 less the rate increase of $61,786,961, produces a 2008 bad debt expense of $71,179.*

DISCUSSION:

Witness Larkin testified that Account 904, Uncollectible Accounts for the December 2008 projected test year should be reduced by $145,485. TR 320. The Company has overstated the bad debt expense. The Company calculated its write-off based on projected 2008 revenues exclusive of the rate increase impact of $144,563. TR 320. The Company included $216,664 for Account 904, Uncollectible Accounts. TR 320. Witness Larkin stated that the Company's explanation that the discrepancy in the uncollectible account and the projected bad debt expense was due to timing delays and the expectation of large increases due to the rate and fuel rate increases did not make sense. TR 320. Witness Larkin pointed out that the Company inclusion of $216,664 for Account 904, Uncollectible Accounts, was an error.

Second, FPU had used a bad debt write-off percentage of 0.2340% for 2008 which had no validity. TR 321. Witness Larkin testified that applying a proper analysis of historical write-offs net of recoveries as a percentage of total revenues using the last five years yields a bad debt write off percentage of 0.11552%. When this factor is applied to the Company's projected revenues in the year 2008 less the rate increase of $61,786,961, this produces a 2008 bad debt expense of $71,179. TR 321.

Witness Larkin pointed out that the $71,179 projected bad debt expense was significantly less than what the Company had in its filing of $216,664. TR 321. Thus, an adjustment should be made to the Company's uncollectible accounts expense in Account 905 of $145,485.

ISSUE 111: Should the company's request for recovery of tree replacement costs be approved?

POSITION: *No. The Company's request to spend $31,050 on an annual basis to dig out and replace trees on private property with low growing trees funded by ratepayers is unreasonable and unsupported. The Company already has a program for tree trimming and line clearance that is supposed to keep trees away from the power lines. It is not the ratepayers' responsibility to fund the replacement of trees with low growth trees by FPUC. Therefore, $31,050 should be removed from expenses.*

DISCUSSION:

The Company requested an additional $31,050 for replacing customer trees with low growing trees. TR 311, 312. Witness Larkin testified that the Commission should not authorize the Company to spend $31,050 on an annual basis to dig out and replace trees on private property with trees funded by ratepayers. TR 312. As witness Larkin noted, the customers are responsible for planting and keeping trees away from power lines. TR 312. Therefore, the general body of ratepayers should not be responsible to fund the replacement of trees by FPU for a specific customer. TR 312. Witness Cutshaw conceded that the tree replacement program would have little to no effect initially, but the program was looking down the road long-term, 10-15 years. (HE 3-21 at p. 23). He further acknowledged that it would have a minimal impact on tree trimming costs. He said that there should be some benefit in five to ten years but acknowledged that the Company did not have any data to substantiate any of this. (HE 3-21 at p. 21).

As the Company acknowledged there is no immediate cost reduction benefit to the general body of ratepayers and the long-term effects at best are undeterminable. As witness Larkin pointed out, the general body of ratepayers should not have to pay for tree replacement when the individual customer already has the obligation not to plant their trees near the power lines. Therefore, the $31,050 expense for a tree replacement program should be removed. TR 312.

ISSUE 113: Is FPUC's requested level of O&M Expense – Other in the amount of $10,081,391 for the December 2008 projected test year appropriate?

POSITION: *No. FPUC's requested O&M expenses should be decreased by $1,801,901 to reflect a total of $8,279,490. This issue is subject to the resolution of other issues.*

DISCUSSION:

FPUC's requested O&M expenses should be decreased by $1,801,901 to reflect a total of $8,279,490. This issue is subject to the resolution of other issues.

ISSUE 114: What adjustments, if any, should be made to the December 2008 projected test year depreciation expense to reflect the Commission's decisions regarding the depreciation study filed in Docket No. 070382-EI?

POSITION: *The depreciation expense should reflect the Commission's decision in Docket No. 070382-EI.*

DISCUSSION:

The depreciation expense should reflect the Commission's decision in Docket No. 070382-EI.

ISSUE 115: What is the appropriate amount of Depreciation Expense for the December 2008 projected test year?

POSITION: *The appropriate amount of depreciation expense should be $3,415,439, which is a reduction of $3,408 to FPU's requested expense. Further, adjustments approved in the Company's current depreciation study in Docket No. 070382-EI should be made to the rate case depreciation expense. Since this is a fall-out issue, it is subject to further revision based on the resolution of other issues.

DISCUSSION:

The appropriate amount of depreciation expense should be $3,415,439, which is a reduction of $3,408 to FPU's requested expense. Further, adjustments approved in the Company's current depreciation study in Docket No. 070382-EI should be made to the rate case depreciation expense. Since this is a fall-out issue, it is subject to further revision based on the resolution of other issues.

ISSUE 116: Should an adjustment be made to Taxes Other Than Income Taxes for the December 2008 projected test year?

POSITION: *Yes. FICA payroll taxes should be reduced by $5,802 as addressed in the Issue related to the 2007 and 2008 projection and trending factors.*

DISCUSSION:

FICA payroll taxes should be reduced by $5,802 as addressed in the Issue related to the 2007 and 2008 projection and trending factors.

ISSUE 117: Should an adjustment be made to Income Tax expense for the December 2008 projected test year?

POSITION: *Yes. The company's requested current income tax expense of ($1,360,960) should be increased by $771,620 to reflect an adjusted test year expense of ($589,340). Test year deferred income tax expense should be $581,498 and the investment tax credit-net expense should be ($27,935). This issue is subject to the resolution of other issues.*

DISCUSSION:

The company's requested current income tax expense of ($1,360,960) should be increased by $771,620 to reflect an adjusted test year expense of ($589,340). Test year deferred income tax expense should be $581,498 and the investment tax credit-net expense should be ($27,935).

ISSUE 118: Is FPUC's projected Net Operating Income in the amount of $206,341 for the December 2008 projected test year appropriate?

POSITION: *No. The appropriate test year net operating income before a revenue increase should be $1,321,775. This issue is subject to the resolution of other issues.*

DISCUSSION:

The appropriate test year net operating income (NOI) before a revenue increase should be $1,321,775. This issue is subject to the resolution of the net operating income issues.

REVENUE REQUIREMENTS

ISSUE 119: What is the appropriated net operating income multiplier for FPUC?

POSITION: *The appropriate net operating income multiplier should be 1.60634. The Company's requested multiplier includes a 0.20% uncollectible expense factor. This factor should be reduced to reflect the historical average of 0.1152% for uncollectible accounts.*

DISCUSSION:

The appropriate net operating income multiplier should be 1.60634. The Company's requested multiplier includes a 0.20% uncollectible expense factor. This factor should be reduced to reflect the historical average of 0.1152% for uncollectible accounts.

ISSUE 120: Is FPUC's requested annual operating income increase of $5,249,895 for the December 2008 projected test year appropriate?

POSITION: *No. The appropriate annual revenue increase should be $2,346,297. This issue is subject to the resolution of other issues.*

DISCUSSION:

The appropriate annual revenue increase should be $2,346,297. This issue is subject to the resolution of other issues. A summary of the net operating income stipulated issues and Citizens adjustments are discussed in Issue 118.

COST AND SERVICE AND RATE DESIGN

ISSUE 121 TO ISSUE 133 - No Disputed Issues

OTHER ISSUES:

ISSUE 134: Should any of the $790,784 interim rate increase granted by Order No. PSC-07-0897-PCO-EI be refunded to the ratepayers?

POSITION: *FPU has requested a rate increase of approximately $5.2 million. Citizens' reductions to FPU's request of approximately $2.9 million results in a total increase of $2.3 million. Since the rate increase is greater than the interim rate increase granted of $790,784, no refund is necessary.*

DISCUSSION:

FPU has requested a rate increase of approximately $5.2 million. Citizens' reductions to FPU's request of approximately $2.9 million results in a total increase of $2.3 million. Since the rate increase is greater than the interim rate increase granted of $790,784, no refund is required. The interim rate increase previously granted will be absorbed by the total final increase granted by the Commission in this rate proceeding.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Notice of Service of the Office of Public Counsel's Post-Hearing Statement has been furnished by U.S. Mail and electronic mail to the following parties on this 18th day of March, 2008.

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