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From: Cecilia Bradley [Cecilia.Bradley@myfloridalegal.com]
Sent: Monday, November 16, 2009 5:06 PM
To: Filings@psc.state.fl.us
Subject: Attorney General McCollum's Post-hearing Brief in Docket No. 080677

Attachments: AG Post-hearing brief.doc



AG
Post-hearing brief.doc

Attached is the Attorney General's Post-hearing brief for filing in Docket No. 080677.
Thank you for your consideration of this matter.

(See attached file: AG Post-hearing brief.doc)

Please note that Florida has a broad public records law, and that all correspondence to me via email may be subject to disclosure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for increase in rates by Florida Power & Light Company.

DOCKET NO. 080677-EI

In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

DOCKET NO. 090130-EI

FILED: November 16, 2009

ATTORNEY GENERAL'S POST-HEARING BRIEF

The Attorney General, pursuant to the Prehearing Order in this docket, the Order Establishing Procedure in this docket, and Rule 28-106.215, Florida Administrative Code, hereby submits the Attorney General's Post-Hearing Statement of Issues and Positions and Brief.

BASIC POSITION

AG: The rate request from Florida Power & Light. ("FPL") is excessive. In particular, the rate request by FPL does not provide a fair and reasonable rate for the citizens and small businesses of Florida in the current economic climate. Numerous citizens and small business owners sat for hours at the public hearings and testified that they are struggling and simply cannot afford an increase in their electric rates.

These customers testified about the sacrifices they have made to decrease their electrical usage and how their electric bills have continued to go up despite these sacrifices. A number of the customers testified that they would like to take advantage of the programs to purchase more energy-efficient appliances or make energy-saving repairs but could not afford to do so.

Many of these customers talked about being on fixed incomes and having their Social Security payments frozen for the next two years while their expenses for medications and other goods and services continue to rise. Some of these customers talked about cutting back on their food choices or other expenses because they had to use oxygen or other medical devices requiring electricity. Other customers talked about only taking their prescribed medications every other day or not taking some medications at all so that they could pay their electric bills. Many of the seniors testified about having been raised to live within their means but that their means would no longer cover the necessities. These seniors are now afraid they will have to move in with family or relocate to another state with more affordable electric rates.

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Some business owners also testified about the trickle-down effect the requested increase would have on their customers and businesses. Some testified their businesses had absorbed some of the recent increasing costs but that they couldn't afford to do so if this increase was granted. These business owners testified that they feared their customers would no longer be able to afford their goods and services, forcing them to lay off more staff or close their businesses.

The customers who testified were consistent in their opposition to the rate increase and the serious consequences of such an action by this Commission. Although some customers testified that FPL was a good company and had made charitable contributions to their groups, the efforts by FPL to obtain such favorable testimony must be considered in deciding the weight given to this testimony. There was no mention in the testimony of Ms. Santos that she had 60 or 70 employees making calls and putting together reports of the recruitments who were to testify at the customer service hearings. Instead of the one employee she stated had helped her with the customer service hearings, the report for the hearing showed that there were numerous employees from three different sections who worked on this project and that similar efforts had been made for each service hearing. See Exhibit 524 and 525. The customers who testified about the charitable things that FPL had done appeared early and took the places of the customers who gave up before having an opportunity to testify. Further, these employees did this recruitment during work hours so the customers paid for this recruitment.

Although some customers were complimentary of the service they received from FPL, many others complained about the service responsiveness, the numerous power surges, and the intermittent power outages during sunny days. FPL did not deny these customer complaints but merely stated that they had resolved most of these complaints and had been recognized for their exemplary customer service. However, the evidence from their customers and other sources shows there are problems with reliability and customer service, the most notable of which affected not only the customers of FPL but the grid as well. Therefore, the testimony of the customers demonstrates that the service quality by FPL is not adequate and the company should be required to implement procedures to correct these problems.

This testimony clearly shows that the rate increase requested by FPL will not provide a fair and reasonable rate for its customers during this difficult economic time. FPL has asserted that it needs this rate increase in order to continue to provide reliable electricity for its customers. However, the record demonstrates that FPL is operating well beyond the level needed to provide reliable electrical service. While the FPL customers testified that they were taking their medicine every other day, only heating water for showers once a week, only turning on their heat or air conditioning when the temperatures reached unbearable temperatures and making daily sacrifices so they could pay their electricity bills, the FPL executives and high paid employees were flying helicopters to the office

and jetting back and forth to the hearing. FPL made a billion dollars in profit last year, has an excessive depreciation amount, and has provided extravagant pay for many of its employees (more than 400 made more than the Governor and cabinet and all PSC Commissioners). FPL even had catered meals and special offices (observation rooms) for the hearing and retained numerous employees, attorneys, and expert witnesses, all paid for by the same consumers that can't afford to both buy electricity and meet their daily needs. The record is clear that FPL has numerous luxuries that are unnecessary for the company to provide reliable electricity in the future. Accordingly, FPL's petition should be denied.

ISSUES AND POSITIONS

2010 PROPOSED TEST PERIOD

ISSUE 1: Does the Commission have the legal authority to approve a base rate increase using a 2010 projected test year?

AG: Yes. Adopt OPC's position.

ISSUE 2: Is FPL's projected test period of the 12 months ending December 31, 2010, appropriate?

AG: Support OPC's position.

ISSUE 3: Are FPL's forecasts of customers, kWh, and kW by revenue and rate classes for the 2010 projected test year appropriate?

AG: No. Support OPC's position.

2011 PROPOSED SUBSEQUENT YEAR TEST PERIOD

ISSUE 4: Does the Commission have the legal authority to approve a subsequent year base rate adjustment using a 2011 projected test year?

AG: No. Support OPC's position. The future of Florida citizens should not be based on anything this speculative.

ISSUE 5: Should the Commission approve in this docket FPL's request to adjust base rates in January 2011?

AG: No. Adopt OPC's position.

ISSUE 6: Is FPL's projected subsequent year test period of the 12 months ending December 31, 2011, appropriate?

AG: No. Support OPC's position. The changing economic conditions are too uncertain and it would not be in the best interest of the consumers to use a speculative 2011 projection.

ISSUE 7: Are FPL's forecasts of customers, kWh, and kW by revenue and rate classes for the 2011 projected test year appropriate?

AG: No. Adopt OPC's position.

GENERATION BASE RATE ADJUSTMENT

ISSUE 8: Should the Commission approve a Generation Base Rate Adjustment (GBRA) mechanism which would authorize FPL to increase base rates for revenue requirements associated with new generating additions approved under the Power Plant Siting Act, at the time they enter commercial service?

AG: No. Support OPC's position and regulatory oversight of these issues.

ISSUE 9: If the Commission approves a GBRA mechanism for FPL, how should the cost of qualifying generating plant additions be determined?

AG: No. The cost of plant additions should not be based on estimated costs which are done years in advance and are speculative at best.

ISSUE 10: INTENTIONALLY BLANK.

ISSUE 11: If the Commission approves a GBRA mechanism for FPL, how should the GBRA be designed?

AG: Adopt OPC position.

ISSUE 12: If the Commission approves a GBRA mechanism for FPL, should the maximum amount of the base rate adjustment associated with a qualifying generating facility be limited by a consideration of the impact of the new generating facility on FPL's earned rate of return ("earnings test")? If so, what are the appropriate financial parameters of the test, and how should the earnings test be applied?

AG: Adopt OPC's position.

ISSUE 13: If the Commission approves a GBRA mechanism for FPL, how should FPL be required to implement the GBRA?

AG: Adopt OPC's position.

ISSUE 14: If the Commission chooses not to approve the continuation of the GBRA mechanism, but approves the use of the subsequent year adjustment, what is the appropriate adjustment to FPL's rate request to incorporate the revenue requirements reflected in the West County Unit 3 MFR Schedules?

AG: Adopt OPC's position.

JURISDICTIONAL SEPARATION

ISSUE 15: Does FPL's methodology of including its transmission-related investment, costs, and revenues of its non-jurisdictional customers when calculating retail revenue requirements properly and fairly identify the retail customers appropriate revenue responsibility for transmission investment? If no, then what adjustments are necessary?

AG: No. Support OPC's position.

ISSUE 16: What is the appropriate jurisdictional separation of costs and revenues between the wholesale and retail jurisdictions?

AG: Adopt OPC's position

QUALITY OF SERVICE

ISSUE 17: Is the quality and reliability of electric service provided by FPL adequate?

AG: The testimony at the service hearings indicates that service varies in different parts of FPL's territory. Some customers testified about problems with continuing service interruptions and ongoing problems with tree-trimming issues. While FPL testified about its awards for service, the customers who testified did not have the same view. These persons drove distances and waited for lengthy periods of time in order to let this Commission know about their problems and to seek help. Customers shouldn't have to go to these lengths in order to get help from their utility. While it may take more effort for the utility to provide reliable service in the poorer, older and remote areas of their territory, these customers, who have probably been paying for that service longer, deserve the same quality of service as customers in the newer, more affluent areas. We would ask that the Commission require FPL to implement efforts to provide more reliable service in those areas with less reliable service.

DEPRECIATION STUDY

ISSUE 18: INTENTIONALLY BLANK.

ISSUE 19A: What are the appropriate capital recovery schedules?

AG: Adopt OPC's position.

ISSUE 19B: Is FPL's calculation of the average remaining life appropriate?

AG: Adopt OPC's position.

ISSUE 19C: What are the appropriate depreciation parameters (remaining life, net salvage percentage and reserve percentage) and resulting rates for each production unit (including but not limited to, coal, steam, combined-cycle, etc)?

AG: Adopt OPC's position.

ISSUE 19D: What are the appropriate depreciation parameters (remaining life, net salvage percentage and reserve percentage) and resulting rates for each transmission, distribution, and general plant account?

AG: Adopt OPC's position.

ISSUE 19E: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FPL's data, and a comparison of the theoretical reserves to the book reserves, what are the resulting imbalances?

AG: Adopt OPC's position.

ISSUE 19F: What, if any, corrective reserve measures should be taken with respect to the imbalances identified in Issue 19E?

AG: Adopt OPC's position.

ISSUE 19G: What should be the implementation date for revised depreciation rates, capital recovery schedules, and amortization schedules?

AG: January 1, 2010.

ISSUES 19- 39: INTENTIONALLY BLANK.

FOSSIL DISMANTLEMENT COST STUDY

ISSUE 40: Should the currently approved annual dismantlement provision be revised?

AG: Adopt OPC's position.

ISSUE 41: What, if any, corrective reserve measures should be approved?

AG: Adopt OPC's position.

ISSUE 42: What is the appropriate annual provision for dismantlement?

AG: Adopt OPC's position.

ISSUE 43: Does FPL employ reasonable depreciation parameters and costs when it assumes that it must restore all generation sites to "greenfield" status upon their retirement?

AG: Adopt OPC's position.

ISSUE 44: In future dismantlement studies filed with the Commission, should FPL consider alternative demolition approaches?

AG: Yes

RATE BASE

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 45: INTENTIONALLY BLANK.

ISSUE 46: Should the net over-recovery/under-recovery of fuel, capacity, conservation, and environmental cost recovery clause expenses be included in the calculation of working capital allowance for FPL?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position.

ISSUE 47: Are the costs associated with Advanced Metering Infrastructure (AMI) meters appropriately included in rate base?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 50: Are FPL's requested levels of Plant in Service appropriate?

- A. For the 2010 projected test year in the amount of \$28,288,080,000?
- B. If applicable, for the 2011 subsequent projected test year in the amount of \$29,599,965,000?

AG: Adopt OPC's position.

- ISSUE 51:** Are FPL's requested levels of accumulated depreciation appropriate?
- A. For the 2010 projected test year in the amount of \$12,590,521,000?
 - B. If applicable, for the 2011 subsequent projected test year in the amount of \$13,306,984,000?

AG: Adopt OPC's position.

- ISSUE 52:** Is FPL's proposed adjustment to CWIP for the Florida EnergySecure Line (gas pipeline) appropriate?
- A. For the 2010 projected test year?
 - B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

- ISSUE 55:** Are FPL's requested levels of Construction Work in Progress (CWIP) appropriate?
- A. For the 2010 projected test year in the amount of \$707,530,000?
 - B. If applicable, for the 2011 subsequent projected test year in the amount of \$772,484,000?

AG: Adopt OPC's position.

- ISSUE 56:** Are FPL's requested levels of Property Held for Future Use appropriate?
- A. For the 2010 projected test year in the amount of \$74,502,000?
 - B. If applicable, for the 2011 subsequent projected test year in the amount of \$71,452,000?

AG: No. Support OPC's position

- ISSUE 58:** Is FPL's proposed accrual of Nuclear End of Life Material and Supplies and Last Core Nuclear Fuel appropriate?
- A. For the 2010 projected test year?
 - B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 59: Should nuclear fuel be capitalized and included in rate base due to the dissolution of FPL Fuels, Inc.?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 60: Are FPL's requested levels of Nuclear Fuel appropriate
A. For the 2010 projected test year in the amount of \$374,733,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$408,125,000?

AG: No position.

ISSUE 61: Should the unamortized balance of the FPL Glades Power Park (FGPP) be included in rate base?

AG: No position.

ISSUE 62: Are FPL's requested levels of Working Capital appropriate?
A. For the 2010 projected test year in the amount of \$209,262,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$335,360,000?

AG: Adopt OPC's position.

ISSUE 63: Is FPL's requested rate base appropriate?
A. For the 2010 projected test year in the amount of \$17,063,586,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$17,880,402,000?

AG: Adopt OPC's position

COST OF CAPITAL

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 64: What is the appropriate amount of accumulated deferred taxes to include in the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position

ISSUE 66: What is the appropriate amount and cost rate of the unamortized investment tax credits to include in the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position.

ISSUE 67: What is the appropriate cost rate for short-term debt?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position.

ISSUE 68: What is the appropriate cost rate for long-term debt?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position

ISSUE 69: Have rate base and capital structure been reconciled appropriately?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 70: Has FPL appropriately described the actual 59.6% equity ratio that it proposes to use for ratemaking purposes as an "adjusted 55.8% equity ratio" on the basis of imputed debt associated with FPL's purchased power contracts?

AG: No. Adopt OPC's position.

ISSUE 71: What is the appropriate equity ratio that should be used for FPL for ratemaking purposes in this case?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position

ISSUE 73: What is the appropriate capital structure for FPL for the purpose of setting rates in this docket?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 80: What return on common equity should the Commission authorize in this case?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position

ISSUE 81: What is the appropriate weighted average cost of capital including the proper components, amounts and cost rates associated with the capital structure?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position

NET OPERATING INCOME

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 82: What are the appropriate inflation and customer growth for use in forecasting?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 83: Should FPL's proposal to transfer capacity charges and capacity-related revenue associated with the St. John's River Power Park from base rates to the Capacity Cost Recovery Clause be approved?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 84: Has FPL made the appropriate test year adjustments to remove fuel revenues and fuel expenses recoverable through the Fuel Adjustment Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 85: Has FPL made the appropriate test year adjustments to remove conservation revenues and conservation expenses recoverable through the Conservation Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 86: Has FPL made the appropriate test year adjustments to remove capacity revenues and capacity expenses recoverable through the Capacity Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 87: *Has FPL made the appropriate test year adjustments to remove environmental revenues and environmental expenses recoverable through the Environmental Cost Recovery Clause?*
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 88: Should an adjustment be made to operating revenue to reflect the incorrect forecasting of FPL's C/I Demand Reduction Rider Incentive Credits and Offsets?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 89: Is an adjustment appropriate to FPL's Late Payment Fee Revenues if the minimum Late Payment Charge is approved in Issue?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Such charges should not be allowed, as discussed in the response to Issue 145; otherwise adopt OPC's position.

ISSUE 90: Are any adjustments necessary to FPL's Revenue Forecast?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC's position.

ISSUE 91: Are FPL's projected levels of Total Operating Revenues appropriate?
A. For the 2010 projected test year in the amount of \$4,114,727,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$4,175,024,000?

AG: No. Adopt OPC's position.

ISSUE 92: Has FPL made the appropriate adjustments to remove charitable contributions?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 93: Should an adjustment be made to remove FPL's contributions recorded above the line for the historical museum?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC's position

ISSUE 94: Should an adjustment be made for FPL's Aviation cost for the test year?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 95: Are the cost savings associated with AMI meters appropriately included in net operating income?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Support OPC's position

ISSUE 96: What is the appropriate level of Bad Debt Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position

ISSUE 97: Should an adjustment be made to remove the portion of Bad Debt Expense associated with clause revenue that is currently being recovered in base rates and include them as recoverable expenses in the respective recovery clauses?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 100: Are any adjustments necessary to FPL's payroll to reflect the historical average level of unfilled positions and jurisdictional overtime?

AG: Support OPC's position.

ISSUE 101: Should FPL reduce expenses for productivity improvements given the Company's lower historical rate of growth in payroll costs?

AG: No position.

ISSUE 102: Is it appropriate for FPL to increase its forecasted Operating and Maintenance Expenses due to estimated needs for nuclear production staffing?

AG: No. Support OPC's position

ISSUE 103: Should an adjustment be made to FPL's requested level of Salaries and Employee Benefits?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: See response to Issues 100-102, 104 and 105.

ISSUE 106: Should an adjustment be made to Pension Expense?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 107: Is a test year adjustment necessary to reflect FPL's receipt of an environmental insurance refund in 2008?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC's position.

ISSUE 108: Is a test year adjustment appropriate to reflect the expected settlement received from the Department of Energy?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position

ISSUE 109: Should adjustments be made for the net operating income effects of transactions with affiliated companies for FPL?

AG: Yes. Support OPC's Position

ISSUE 116a: Is an adjustment necessary to reflect the gains on sale of utility assets sold to FPL's non-regulated affiliates?

AG: Yes. Support OPC's position.

ISSUE 118: INTENTIONALLU BLANK.

ISSUE 119: Should the Commission order notification requirements to report the future transfer of the FPL-NED assets from FPL to a separate company under FPL Group Capital?

AG: Yes. Support OPC's position

ISSUE 120: Should an adjustment be made to FPL's requested storm damage reserve, annual accrual of \$150 million, and target level of \$650 million?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Yes. Support OPC's position.

ISSUE 121: What adjustment, if any, should be made to the fossil dismantlement accrual?

AG: Support OPC's position.

ISSUE 122: What is the appropriate amount and amortization period of Rate Case Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: Support OPC'S position.

ISSUE 124: Should FPL's request to move payroll loading associated with the Energy Conservation Cost Recovery Clause (ECCR) payroll currently recovered in base rates to the ECCR be approved?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 125: Should an adjustment be made to remove payroll loadings on incremental security costs that are currently included in base rates and include them in the Capacity Cost Recovery Clause?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 126: Should an adjustment be made to move the incremental hedging costs that are currently being recovered through the Fuel Cost Recovery Clause to base rates?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Support OPC's position.

ISSUE 128: Is FPL's requested level of O&M Expense appropriate?
A. For the 2010 projected test year in the amount of \$1,694,367,000?
B. If applicable, for the 2011 subsequent projected test year in the amount of \$1,781,961,000?

AG: No. Adopt OPC's position.

ISSUE 129: Should FPL be permitted to collect depreciation expense for its new Customer Information System prior to its implementation date?

AG: Adopt OPC's position.

ISSUE 130: Should FPL's depreciation expenses be reduced for the effects of its capital expenditure reductions?

AG: Adopt OPC's position.

ISSUE 131: Should any adjustment be made to Depreciation Expense?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No. Adopt OPC's position.

ISSUE 132: Should an adjustment be made to Taxes Other Than Income Taxes for the 2010 and 2011 projected test years?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position.

ISSUE 133: Should an adjustment be made to reflect any test year revenue requirement impacts of "The American Recovery and Reinvestment Act" signed into law by the President on February 17, 2009?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 134: Should an adjustment be made to Income Tax expense?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position.

ISSUE 135: Is FPL's projected Net Operating Income appropriate?

- A. For the 2010 projected test year in the amount of \$725,883,000?
- B. If applicable, for the 2011 subsequent projected test year in the amount of \$662,776,000?

AG: Adopt OPC's position.

REVENUE REQUIREMENTS

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 136: What are the appropriate revenue expansion factors and the appropriate net operating income multipliers, including the appropriate elements and rates, for FPL?

- A. For the 2010 projected test year?
- B. If applicable, for the 2011 subsequent projected test year?

AG: Adopt OPC's position.

ISSUE 137: Is FPL's requested annual operating revenue increase appropriate?

- A. For the 2010 projected test year in the amount of \$1,043,535,000?

B. If applicable, for the 2011 subsequent projected test year in the amount of \$247,367,000?

AG: Adopt OPC's position.

ISSUE 138: INTENTIONALLY BLANK.

COST OF SERVICE AND RATE DESIGN ISSUES

(A decision on the 2011-related items marked as (B) below will be necessary only if the Commission votes to approve FPL's request for a subsequent year adjustment.)

ISSUE 139: Has FPL correctly calculated revenues at current rates for the 2010 and 2011 projected test year?

A. For the 2010 projected test year?

B. If applicable, for the 2011 subsequent projected test year?

AG: No. Adopt OPC's position.

ISSUE 140: Should FPL use a minimum distribution cost methodology (utilizing either a "zero intercept" or a "minimum size" approach) to allocate distribution plant costs to rate classes?

AG: No position.

ISSUE 141: What is the appropriate Cost of Service Methodology to be used to allocate base rate and cost recovery costs to the rate classes?

AG: No position.

ISSUE 142: How should the change in revenue requirement be allocated among the customer classes?

AG: No position.

ISSUE 144: Are FPL's proposed service charges for initial connect, field collection, reconnect for non-payment, existing connect, and returned payment charges appropriate?

AG: No. This just increases the burden on customers who are already struggling to pay their bills timely. These rates should be reduced. Although FPL's witnesses denied that this would have a bigger impact on the lower income customers because the charges were based on credit ratings, this ignores the obvious fact that the lower income customers are struggling to pay their bills and are likely to have a less favorable credit rating. The customers testified at the service hearings that they had always lived within their means and paid their bills timely but they were now suffering from wages and social security payments that had been frozen and they were struggling to pay their essentials. By increasing the initial connect fee, the company is also decreasing the number of young customers who are just completing school and are trying to establish their jobs and homes. Although FPL talks about making efforts to increase their customer base, they seem unwilling to make small efforts like reducing their initial connect fees.

ISSUE 145: Is FPL's proposal to increase the minimum late payment charge to \$10 appropriate?

AG: No. Customers are struggling to pay their bills and adding more to their burden is counterproductive and not in the public's best interest. Although FPL stated these charges were intended to "incent" their customers to pay on time, they don't seem to grasp the fact that those who don't have the money are doing everything they can to pay on time and increasing the late charges penalizes these customers and makes it less likely for them to pay on time the next month. It was also inappropriate that FPL wants to "incent" their customers for what they view as poor behavior but hasn't considered penalizing FPL for failures such as not trimming vegetation timely and missing appointments and the other things about which the customers complained in order to "incent" the company.

ISSUE 148: Are FPL's proposed termination factors to be applied to the total installed cost of facilities when customers terminate their Premium Lighting or Recreational Lighting agreement prior to the expiration of the contract term appropriate? (8.722 and 8.745)

AG: No position.

ISSUE 150: Is FPL's proposed Present Value Revenue Requirement multiplier to be applied to the installed cost of premium lighting facilities under rate Schedule Premium Lighting (PL-1) and the installed cost of recreational lighting facilities under the rate Schedule Recreational Lighting (RL-1) to determine the lump sum advance payment amount for such facilities appropriate? (8.720 and 8.743)

AG: No position.

ISSUE 152: Should FPL's proposal to close the relamping option on the Street Lighting (SL-1) and Outdoor Lighting (OL-1) tariffs for new street light installations be approved? (8.716 and 8.725)

AG: No position.

ISSUE 154: Is FPL's proposed monthly kW credit to be provided customers who own their own transformers pursuant to the Transformation Rider appropriate? (8.820)

AG: No position.

ISSUE 155: Is FPL's proposed monthly fixed charge carrying rate to be applied to the installed cost of customer-requested distribution equipment for which there are no tariffed charges appropriate? (10.010)

AG: No position.

ISSUE 156: Is FPL's proposed Monthly Rental Factor to be applied to the in-place value of customer-rented distribution substations to determine the monthly rental fee for such facilities appropriate? (10.015)

AG: No position.

ISSUE 157: Are FPL's proposed termination factors to be applied to the in-place value of customer-rented distribution substations to calculate the termination fee appropriate? (10.015)

AG: No position.

ISSUE 159: What are the appropriate customer charges?

AG: No position.

ISSUE 160: What are the appropriate demand charges?

AG: No position.

ISSUE 161: What are the appropriate energy charges?

AG: No position.

ISSUE 162: What are the appropriate lighting rate charges?

AG: No position.

ISSUE 163: What is the appropriate level and design of the charges under the Standby and Supplemental Services (SST-1) rate schedule?

AG: No position.

ISSUE 164: What is the appropriate level and design of charges under the Interruptible Standby and Supplemental Services (ISST-1) rate schedule?

AG: No position.

ISSUE 165: Is FPL's design of the HLFT rates appropriate?

AG: No position.

ISSUE 166: Is FPL's design of the CILC rate appropriate?

AG: No position.

ISSUE 167: Is FPL's CDR credit appropriate?

AG: No position.

ISSUE 168: What is the appropriate method of designing time of use rates for FPL?

AG: No position.

ISSUE 169: INTENTIONALLY BLANK.

ISSUE 170: Should FPL evaluate the merits of a prepayment option in lieu of monthly billing for those customers who can benefit from such an alternative? If so, how?

AG: Yes. Adopt OPC's position.

OTHER ISSUES

ISSUE 173: Should an adjustment be made in base rates to include FPL's nuclear uprates being placed into service during the projected test years if any portion of prudently incurred NCRC recovery is denied?
A. For the 2010 projected test year?
B. If applicable, for the 2011 subsequent projected test year?

AG: No position.

ISSUE 174: INTENTIONALLY BLANK.

ISSUE 177: Should this docket be closed?

AG: No position.

Respectfully submitted,

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s/ Cecilia Bradley
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CERTIFICATE OF SERVICE
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I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail to the following parties on this 16th day of November, 2009 to the following:

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