

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

IN RE:

PETITION FOR RATE INCREASE BY)
FLORIDA POWER AND LIGHT)
COMPANY)

DOCKET NO. 120015-EI

DIRECT TESTIMONY
OF
LANE KOLLEN
(SETTLEMENT ISSUES)

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ON BEHALF OF THE

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J. KENNEDY AND ASSOCIATES, INC.
ROSWELL, GEORGIA

OCTOBER 2012

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**BEFORE THE FLORIDA
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IN RE:

**PETITION FOR RATE INCREASE BY) DOCKET NO. 120015-EI
FLORIDA POWER & LIGHT COMPANY)**

DIRECT TESTIMONY OF LANE KOLLEN

1 **Q. DID YOU PREVIOUSLY FILE TESTIMONY IN THIS PROCEEDING**
2 **ON BEHALF OF SFHHA?**

3 **A. Yes. I filed Direct Testimony in the captioned matter.**

4 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PHASE**
5 **OF THE PROCEEDING?**

6 **A. The purpose of my testimony is to address the issues listed in Appendix A to**
7 **the Commission's Third Order Revising Order Establishing Procedure dated**
8 **October 3, 2012. These issues are as follows:**

- 9
- 10 1. Are the generation base rate adjustment for the Canaveral
11 Modernization Project, Riviera Beach Modernization Project, and Port
12 Everglades Modernization Project, contained in paragraph 8 of the
13 Stipulation and Settlement, in the public interest?
- 14
- 15 2. Is the provision contained in paragraph 10(b) of the Stipulation and
16 Settlement, which allows the amortization of a portion of FPL's Fossil
17 Dismantlement Reserve during the Term, in the public interest?
- 18
- 19 3. Is the provision contained in paragraph 11 of the Stipulation and
20 Settlement, which relieves FPL of the requirement to file any
21 depreciation or dismantlement study during the Term, in the public
22 interest?
- 23

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1 4. Is the provision contained in paragraph 12 of the Stipulation and
2 Settlement, which creates the "Incentive Mechanism" including the
3 gain sharing thresholds established between customers and FPL, in the
4 public interest?
5

6 5. Is the Settlement Agreement in the public interest?

7 I address whether the provisions in the proposed settlement that are referenced
8 in Issues 1 through 4 are in the public interest and whether the Settlement
9 Agreement as a whole is in the public interest.

10 **Q. SFHHA'S FINAL LITIGATION POSITION AS SET FORTH IN ITS**
11 **POST-HEARING BRIEF SUPPORTS A REDUCTION OF FPL'S**
12 **REVENUE REQUIREMENT EFFECTIVE JANUARY 1, 2013 OF**
13 **APPROXIMATELY \$99 MILLION, WHEREAS THE PROPOSED**
14 **SETTLEMENT WOULD PROVIDE FPL A RATE INCREASE ON**
15 **JANUARY 1, 2013 OF \$378 MILLION. IS SFHHA'S POSITION IN ITS**
16 **POST-HEARING BRIEF INCONSISTENT WITH A CONCLUSION**
17 **THAT THE PROPOSED SETTLEMENT IS IN THE PUBLIC**
18 **INTEREST?**

19 A. No. I have testified on hundreds of occasions in rate proceedings over the
20 course of my career. I have offered that testimony at various times on behalf
21 of virtually every segment involved in electric regulation, including utilities,
22 state commissions and their staffs, and large consumers of electricity. In my
23 experience, the final agency order typically adopts positions advocated by
24 various parties, and does not adopt all positions adopted by any one party

25 Although I continue to strongly support the positions that I addressed

1 in the litigated proceeding, as does SFHHA, there is significant value to the
2 parties and the public in general from a settlement of litigated issues in lieu of
3 an adjudication of those issues. Such settlements generally are encouraged by
4 commissions to achieve outcomes that are more acceptable to the parties and
5 to minimize the use of the Commission's and the parties' resources in further
6 litigation.

7 As I subsequently discuss, the proposed settlement here represents a
8 compromise by all the settling parties of their litigated positions, a
9 circumstance that was made possible by the various provisions of the
10 proposed settlement as a package, including the five provisions of the
11 proposed settlement that are the subject of the issues identified by the
12 Commission. Taken as a whole, the proposed settlement provides substantial
13 benefits for customers, which is why the proposed settlement is in the public
14 interest, notwithstanding the positions SFHHA took in the litigated
15 proceeding.

16 **Q. ARE THE GENERATION BASE RATE ADJUSTMENTS FOR THE**
17 **CANAVERAL, RIVIERA BEACH, AND PORT EVERGLADES**
18 **MODERNIZATION PROJECTS, CONTAINED IN PARAGRAPH 8 OF**
19 **THE SETTLEMENT, IN THE PUBLIC INTEREST?**

20 **A.** Yes. In the context of this proceeding, the three GBRA adjustments in the
21 settlement are in the public interest for at least four reasons. The first reason
22 is that the Company cannot claw back the reduction from its request through a
23 subsequent base rate increase over the next four years.

1 The second reason is that the GBRA increases are limited to the
2 Canaveral, Riviera, and Port Everglades modernization projects. The
3 Company cannot seek or implement any other base rate increases during the
4 next four years regardless of increased costs unless it is unable to achieve a
5 return on equity of 9.70% through a combination of revenue growth, cost
6 controls, or amortization of the remaining depreciation reserve surplus and the
7 fossil dismantlement reserve.

8 The third reason is that the GBRA increases are capped based on the
9 costs approved by the Commission in the respective needs proceedings for the
10 three modernization projects. In those proceedings, the Commission approved
11 those projects based on the need for and costs of the three projects.

12 The fourth reason is that the settlement sets forth the methodology for
13 computing the GBRA revenue requirement for each of the three increases.

14 Thus, the GBRA mechanism in the proposed settlement provides rate
15 certainty and stability over the next four years, and allows rate increases over
16 that time period only for the costs of the three modernization projects, which
17 are reasonably certain and known and measurable as of today.

18 **Q. DID YOU OPPOSE FPL'S PROPOSED GBRA IN ITS LAST RATE**
19 **CASE?**

20 **A.** Yes. However, the settlement GBRA is different than FPL's proposed GBRA
21 in its last case. I opposed FPL's proposed GBRA in the last rate case because
22 it would have permanently supplanted the traditional base ratemaking process
23 for all major generation and transmission projects and because the
24 methodology was not well-defined and was flawed in important respects.

1 Unlike the Company's proposal in the last case, the settlement GBRA in this
2 case provides rate certainty and stability over a limited duration of four years,
3 limits the rate increases only to recovery of the costs of the three
4 modernization projects, which are known and measurable as of today, and is
5 part of a comprehensive settlement of all issues.

6 **Q. IS THE PROVISION CONTAINED IN PARAGRAPH 10(B) OF THE**
7 **STIPULATION AND SETTLEMENT, WHICH ALLOWS THE**
8 **CONTINUED AMORTIZATION OF THE COMPANY'S**
9 **DEPRECIATION RESERVE SURPLUS AND A PORTION OF ITS**
10 **FOSSIL DISMANTLEMENT RESERVE (THE "RESERVE**
11 **AMOUNTS"), IN THE PUBLIC INTEREST?**

12 **A.** Yes. This provision in the settlement is in the public interest for at least three
13 reasons. The first reason is that the settlement avoids future base rate
14 increases over the next four years by allowing the Company a limited
15 opportunity to amortize the remainder of the depreciation surplus and a
16 portion of the dismantlement reserve amounts recovered from customers in
17 prior years in order to maintain its return on equity within the range set forth
18 in the settlement. The ability to use the depreciation surplus and the
19 dismantlement reserve is limited by the Company's actual earned return up to
20 a maximum of 11.7% in each year during the four year period. The ability to
21 amortize these reserves also is limited to \$400 million over the four year
22 period.

23 The second reason is that this provision ensures that customers retain
24 the full amount of the excess depreciation reserve, including the reduction to

1 rate base, that actually will exist at December 31, 2012 if it is greater than the
2 amount projected by the Company in its filing. On the other hand, the
3 Company bears the risk if the actual amount is less than the Company
4 projected in its filing.

5 The third reason is that the continued amortization of the excess
6 depreciation reserve returns the excess amounts collected in prior years to
7 customers over a shorter period of time than if the excess depreciation reserve
8 were returned to customers over the remaining lives of the underlying assets
9 as reflected in the Company's approved depreciation rates. Given the
10 circumstances now in effect on FPL's system, SFHHA believes this provision,
11 in conjunction with other aspects of the settlement, is in the public interest.

12 **Q. IS THE PROVISION CONTAINED IN PARAGRAPH 11 OF THE**
13 **STIPULATION AND SETTLEMENT, WHICH RELIEVES FPL OF**
14 **THE REQUIREMENT TO FILE ANY DEPRECIATION OR**
15 **DISMANTLEMENT STUDY DURING THE TERM, IN THE PUBLIC**
16 **INTEREST?**

17 **A.** Yes. This provision of the settlement is in the public interest because it is
18 essential to ensure that the Company and its customers both obtain the benefit
19 of the settlement bargain and the relationship between base revenues and the
20 expenses used to support the base revenue requirement. The issue here is
21 whether the depreciation rates can or should be changed as the result of a
22 depreciation study during the next four years when the settlement precludes a
23 concomitant change in the Company's base rates to reflect the changes in
24 depreciation expense resulting from changes in the depreciation rates.

1 The obvious answer to this issue is that there should be no change in
2 depreciation rates during the next four years in order to maintain the matching
3 between the depreciation expense using the present depreciation rates and the
4 base revenues that recover this same depreciation expense using the present
5 depreciation rates.

6 If the Commission maintains the requirement to perform and file a
7 depreciation study in 2013 and the Company's depreciation rates are changed,
8 this necessarily will introduce a mismatch between depreciation expense
9 resulting from the new depreciation rates and the base revenues set to recover
10 depreciation expense. If the depreciation study were to result in a net
11 reduction in depreciation rates and the reduction in depreciation expense was
12 not reflected in a concomitant reduction in base revenues, then the Company
13 would retain the savings, all else equal.

14 **Q. IS THE PROVISION CONTAINED IN PARAGRAPH 12 OF THE**
15 **STIPULATION AND SETTLEMENT, WHICH CREATES THE**
16 **"INCENTIVE MECHANISM" INCLUDING THE GAIN SHARING**
17 **THRESHOLDS ESTABLISHED BETWEEN CUSTOMERS AND FPL,**
18 **IN THE PUBLIC INTEREST?**

19 **A.** Yes. This provision is in the public interest because it provides a timely
20 sharing of "gains" from wholesale power purchases and sales, as well as all
21 other forms of asset optimization, through the fuel adjustment clause ("FAC").
22 Among other sources of gains, as the three modernization projects are
23 completed, the Company should be able to reduce wholesale power purchases

1 and increase sales. Thus, these gains flowed through the FAC will partially
2 offset the base rate increases through the GBRA.

3 **Q. IS THE PROPOSED SETTLEMENT AGREEMENT AS A WHOLE IN**
4 **THE PUBLIC INTEREST?**

5 A. Yes. The proposed settlement is in the public interest because it results in a
6 known and certain reduction from the Company's requested increases, locks
7 in that reduction for the next four years, and ensures that base rate increases
8 over the next four years are capped to allow recovery of only the approved
9 capital investment costs of the Canaveral, Riviera, and Port Everglades
10 modernization projects. The Company will be required to manage its earnings
11 without the benefit of additional base rate increases through a combination of
12 effective cost controls and the amortization of the remaining depreciation
13 reserve surplus as well as a portion of the fossil depreciation reserve.

14 At the same time, all customers, as well as the Company, will be
15 spared the risk and expense of at least one rate case (and possibly two) that
16 FPL likely will file during the four-year period covered by the proposed
17 settlement in the absence of Commission approval of the settlement
18 agreement. One risk that will be avoided by customers is the potential for an
19 increase in FPL's cost of capital over the next few years if interest rates rise
20 from their present historic lows.

21 In short, the benefits I have described that result from the specific
22 provisions that are the subject of this current phase of this case, in conjunction
23 with the decrease to FPL's requested increase in base rates and the other terms
24 and conditions of the proposed settlement, provide substantial benefits to all

1 ratepayers, and approval of the proposed settlement will spare the parties and
2 the Commission from expending their valuable time and resources on further
3 litigation not only in this proceeding, but also over the next four years. In the
4 totality of the circumstances, including the combination of the components I
5 have addressed and the present economic environment, SFHHA believes that
6 the proposed settlement is in the public interest.

7 **Q. DOES THIS COMPLETE YOUR TESTIMONY REGARDING**
8 **SETTLEMENT ISSUES?**

9 A. Yes.

CERTIFICATE OF SERVICE

DOCKET NO. 120015-EI

I HEREBY CERTIFY that a true and correct copy of the **DIRECT TESTIMONY OF LANE KOLLEN (SETTLEMENT ISSUES)** has been furnished by electronic mail and/or U.S. mail on this 12th day of October, 2012 to the following:

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