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Subject: Docket No. 120015-EI
Attachments: Prehearing Statement of VOP 11_8_12.pdf

Below is the required information for the attached e-filing with the Florida Public Service Commission:

- a. The full name, address, telephone number, and e-mail address of the person responsible for the electronic filing:

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- b. The docket number and title if filed in an existing docket:

Title: In Re: Petition for Increase in Rates by Florida Power & Light Company
Docket No. 120015-EI

- c. The name of the party on whose behalf the document is filed:

Village of Pinecrest, Florida

- d. The total number of pages in each attached document:

Prehearing Statement of the Village of Pinecrest - 6 pages

- e. A brief but complete description of each attached document:

Prehearing Statement of the Village of Pinecrest

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Increase in Rates by)
Florida Power & Light Company)
_____)

DOCKET NO.: 120015-EI
FILED: November 6, 2012

PREHEARING STATEMENT OF THE VILLAGE OF PINECREST

Pursuant to the Commission's Third Order Revising Order Establishing Procedure issued October 3, 2012, Order No. PSC-12-0529-PCO-EI, the Village of Pinecrest, Florida ("Village"), by and through its undersigned counsel, hereby submits its Prehearing Statement.

APPEARANCES:

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On behalf of the Village of Pinecrest

1. WITNESSES:

The Village is not sponsoring any witnesses in this proceeding, but reserves the right to cross examine the witnesses of all other parties.

2. EXHIBITS:

The Village is not sponsoring any exhibits through the testimony of its own witnesses in this proceeding.

3. STATEMENT OF BASIC POSITION:

The Village adopts the basic position of the Office of Public Counsel, and in addition, asserts that the Commission should not approve the purported Stipulation and Settlement Agreement for the following reasons.

First, the Village agrees with the Office of Public Counsel that approval of an agreement to which the Public Counsel was not a party and opposes, and which is intended to settle all issues in a fully litigated file-and-suspend rate case, is beyond the authority of the Commission as a matter of law. The legal basis for the Village's conclusion has been thoroughly and expertly set forth by

Public Counsel in his petition for a writ of quo warranto now pending before the Florida Supreme Court.

Second, even if it is determined that the Commission has the authority to approve the purported Stipulation and Settlement Agreement it should nevertheless reject it as not in the public interest. The Agreement is intended to resolve all outstanding issues in the proceeding despite the fact that every significant issue in the proceeding is being vigorously contested by the Office of Public Counsel on behalf of the vast majority of FPL customers. The case has been fully litigated, and all that remains is a decision by the Commission. In fact, nothing in the case is settled among the adversarial parties, even in the remotest sense of the term. Approval of such a “settlement” would serve only to undermine and marginalize the role of the public’s advocate, and would eliminate any meaningful participation by the vast majority of customers in the process. Generally, residential customers have no other voice before the Commission. Furthermore, acceptance by the Commission of a settlement agreement such as this, which is not only opposed by the Office of Public Counsel but by others interested in the proceedings, such as the Florida Retail Federation and the Village, would have a chilling effect inhibiting representation of interested customer groups in the rate setting process. Therefore, the Commission should adopt the bedrock policy principle that it will reject as not in the public interest any comprehensive settlement agreement in a file-and-suspend rate case that is opposed by the Office of Public Counsel.

Third, the purported Stipulation and Settlement Agreement is not in the public interest because it enables FPL to benefit from multiple back-to-back general rate increases without ensuring for customers that such increases are necessary given that changing circumstances in the intervening period could avoid the need for any increase. Under the proposal, FPL’s customer rates would increase at the beginning of 2013 by \$378 million, and then again six months later by an additional \$165.3 million. One year after that, customer rates would automatically increase by another \$236 million. And, following on another two years later in June 2016, rates would again increase by another \$217.9 million. The Commission is asked to authorize revenue requirements in 2012 that FPL says it will not need until 2016. Such a decision by the Commission, to approve back-to-back-to-back-to-back general rate increases, is unprecedented and is flatly at odds with the Commission’s position articulated only two years ago that “back-to-back rate increases should be allowed only in extraordinary circumstances.” Order No. PSC-10-0153-FOF-EI, p. 9. If such extraordinary circumstances existed, FPL would have addressed its need in its general rate case and not as part of an eleventh-hour settlement agreement excluding the Office of Public Counsel.

Finally, the Village believes that the Commission, by addressing to each of the issues identified in the case the question whether a particular aspect of the Stipulation and Settlement Agreement is “in the public interest,” is applying the incorrect standard for each issue. While the Commission may not approve a settlement agreement unless it determines such agreement to be “in the public interest,” that is the incorrect standard to apply in determining the separate issues. Rather, the Commission should ask whether approval of the individual elements will result in fair, just and reasonable rates. The answer to that question being “no,” the Commission should then find that the purported Stipulation and Settlement agreement is not in the public interest.

4. **STATEMENT OF ISSUES AND POSITIONS:**

ISSUE 1: Are the generation base rate adjustments for the Canaveral Modernization Project, Riviera Beach Modernization Project, and Port Everglades

Modernization Project, contained in paragraph 8 of the Stipulation and Settlement, in the public interest?

POSITION: The adjustments will not result in fair just and reasonable rates, and are therefore not in the public interest

ISSUE 2: the provision contained in paragraph 10(b) of the Stipulation and Settlement, which allows the amortization of a portion of FPL's Fossil Dismantlement Reserve during the Term, in the public interest?

POSITION: The Village adopts the position of OPC.

ISSUE 3: the provision contained in paragraph 11 of the Stipulation and Settlement, which relieves FPL of the requirement to file any depreciation or dismantlement study during the Term, in the public interest?

POSITION: The Village adopts the position of OPC.

ISSUE 4: the provision contained in paragraph 12 of the Stipulation and Settlement, which creates the "Incentive Mechanism" including the gain sharing thresholds established between customers and FPL, in the public interest?

POSITION: The Village adopts the position of OPC

ISSUE 5: the Settlement Agreement in the public interest?

POSITION: No.

5. **STIPULATED ISSUES:**

None.

6. **PENDING MOTIONS:**

None.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

None.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

None at this time.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:**

There are no requirements of the Third Order Revising Order Establishing Procedure with which the Village of Pinecrest cannot comply.

Dated this 8th day of November, 2012.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail, to the service list below, on this 8th day of November, 2012:

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