

Eric Fryson

From: John Hendricks [jwhendricks@sti2.com]
Sent: Thursday, November 08, 2012 4:30 PM
To: Filings@psc.state.fl.us
Subject: Hendricks' Prehearing Statement for Proposed Settlement
Attachments: Hendricks Prehearing Settlement Final.docx

Electronic Filing

a. Person responsible for this electronic filing:

John W. Hendricks
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b. Docket No. 120015-EI

In re: Petition for rate increase by Florida Power & Light Company

c. Documents being filed on behalf of John W Hendricks

d. There are a total of 9 pages.

e. The document attached for electronic filing is: Proposed Settlement Prehearing Statement of John W Hendricks

Thank you for your attention to this request.

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DOCUMENT NUMBER-DATE

07571 NOV-8 2012

FPSC-COMMISSION CLEF

11/8/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 120015-EI

DATED: November 8, 2012

PROPOSED SETTLEMENT PREHEARING STATEMENT OF JOHN W. HENDRICKS

John W. Hendricks hereby submits this Proposed Settlement Prehearing Statement.

APPEARANCES:

John W. Hendricks

1. WITNESSES:

John W. Hendricks
367 S Shore Drive
Sarasota, Florida 34234
Telephone: (941) 685-0223
Email: jwhendricks@sti2.com

2. EXHIBITS:

JWH-7

Tax Efficiency in the GBRA Process

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

3. STATEMENT OF BASIC POSITION

The proposed settlement package has some desirable features, such as the GBRA's administrative efficiency and the Incentive Mechanism's focus on optimizing power and fuel assets that are in the rate base. Unfortunately, the proposed settlement also has critical flaws which disqualify it from being in the public interest. It is inefficient, unbalanced in favor of the utility over its ratepayers, and unbalanced in favor of large ratepayers over small ones. The most obvious symptom of the imbalance is that the Office of Public Council, representing the citizens of Florida, opposes the proposed settlement, while the three parties joining FPL in support represent large institutional power users, who would benefit disproportionately as the settlement shifts costs to residential and other small ratepayers.

The four issues posed about specific terms of the proposed settlement and the summary issue about the settlement proposal as a whole are all answered in the negative - - they are not in the public interest.

The GBRA would unnecessarily raise the ratepayer costs for financing about \$3billion of new generation. It includes very large tax gross-up costs and an equity ratio above that used in the determination of need. The provisions concerning amortization of reserve accounts will increase the likelihood of ROEs above the mid-point and are an inappropriate use of these reserve accounts. The proposed incentive mechanism's rewards are unbalanced and have the potential to create windfall profits and blowback. Approving them as proposed would ignore much of what we know about the role of asymmetric information in regulation.

Please consider the potential for the Commission to accept some of the terms of the proposed settlement and the original FPL proposal, to modify some of them to achieve a more balanced outcome and to reject those that are clearly not in the public interest. All of the parties

need to get beyond “take it or leave it” attitudes. We are fortunate to be in a very promising position today. Thanks to the good work of the Commission, FPL, OPC and the U.S. gas industry we are well positioned to have reliable and relatively low cost electricity that many other locations will envy. Let’s try to rebalance the GBRA and Incentive Mechanism proposals, and move forward with an agreement that fairly rewards FPL investors and provides reasonable incentives for optimizing asset management, but is also fairer to ratepayers. The new facilities that FPL is building should be a very good investment for ratepayers, but the proposed GBRA financing and incentives call that into question that value.

STATEMENT OF FACTUAL ISSUES AND POSITIONS

Issue 1: Are the generation base rate adjustments (GBRA) 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?

JWH: No. The GBRA as specified in this settlement proposal “short circuits” the expected rate case scrutiny for over \$3Billion of new generation, enshrines a costly and tax-inefficient equity ratio that exceeds the determination of need value, could block ratepayers receiving the benefit of corporate income tax reductions, and cost ratepayers over \$300 million by eliminating the typical rate case regulatory lag.

Issue 2: Is 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?

JWH: No. This provision and the one covered by Issue 3 below facilitate the use of reserve account amortization as a tool to manage the level of ROE. This will enable FPL to achieve a higher average level of ROE and could be manipulated to reduce the chance of crossing the ROE threshold that would enable a new rate case, while pursuing the highest possible average ROE. This is an inappropriate use of a reserve account. It would not be in the public interest to treat a reserve account as a slush fund to top-up utility earnings.

Issue 3: Is 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?

JWH: No. This provision would block creating or revising any depreciation or dismantlement accounts to protect the ROE management capability described above. It would not be in the public interest because it would put ratepayers at risk of future rate shocks by blocking all studies, including those currently mandated, until after the 4 year term of the proposed agreement. It also contributes to a lack of transparency. Also see position statement on Issue 2 above.

Issue 4: Is 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?

JWH: No. It is highly desirable to financially optimize the efficient use of FPL’s valuable generation, fuel supply, power and transmission resources and to exploit all reasonable sources of net revenue. However, this specific incentive proposal defines threshold values, allocation percentages, a scope of activities covered, and

contracting/outsourcing provisions that appear to be overly generous to the utility and have the potential to create windfall profits. The large quantity of new highly efficient natgas generation coming online, combined with relatively low gas prices and other circumstances, may provide valuable opportunities heretofore unavailable. The incentive mechanism as proposed is not in the public interest, but with substantial modifications to improve balance while still providing effective incentives, it could become very valuable and serve the interest of the public and the utility.

Issue 5: Is the proposed Settlement Agreement in the public interest?

JWH: No. The combination of the provisions described above with the other elements of the settlement is not in the public interest. It is both inefficient and unbalanced, but with appropriate modifications this could be remedied, and deliver a better long term solution for both the utility and the ratepayers.

The GBRA would unnecessarily raise the ratepayer costs for financing about \$3billion of new generation and includes very large tax gross-up costs. The provisions concerning amortization of reserve accounts will increase the likelihood of ROEs above the mid-point and are an inappropriate use of these reserve accounts. The proposed incentive mechanism's rewards are unbalanced and have the potential to create windfall profits and blowback.

4. STIPULATED ISSUES

None.

5. PENDING MOTIONS

None.

6. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR

CONFIDENTIALITY:

None.

7. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

8. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which we cannot comply.

Dated this 8th Day of November, 2012

Respectfully submitted,

s/ John W. Hendricks

John W. Hendricks

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Sarasota, Florida 34234

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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

DATED: NOVEMBER 8, 2012

NOTICE OF SERVICE OF HENDRICKS' PREHEARING STATEMENT

John W. Hendricks gives notice of service of his Prehearing Statement on this 8TH Day of
November, 2012.

s/ John W. Hendricks

John W. Hendricks

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Telephone: (941) 685-0223

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing PREHEARING STATEMENT OF JOHN W. HENDRICKS has been furnished to the following by electronic mail this 8th day of November, 2012:

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Keino Young
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