

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida Power & Light Company.	DOCKET NO. 160021-EI
In re: Petition for approval of 2016-2018 storm hardening plan, by Florida Power & Light Company.	DOCKET NO.160061-EI
In re: 2016 depreciation and dismantlement study by Florida Power & Light Company.	DOCKET NO.160062-EI
In re: Petition for limited proceeding to modify and continue incentive mechanism, by Florida Power & Light Company.	DOCKET NO. 160088-EI
	DATED: APRIL 22, 2016

MOTION TO CONSOLIDATE DOCKETS

The staff of the Florida Public Service Commission, by and through its undersigned counsel and pursuant to Rules 28-106.204 and 28-106.108, Florida Administrative Code (F.A.C.), files this Motion to Consolidate Dockets and in support thereof states as follows:

1. On March 15, 2016, Florida Power & Light Company (FPL) filed its Minimum Filing Requirements (MFRs) and testimony in support of rate increases in its base rates and charges to be effective January 1, 2017, January 1, 2018, and a step increase for the Okeechobee Energy Center effective on the commercial in-service date of the unit, currently projected to be June 1, 2019. The rate case was assigned Docket No. 160021-EI. Simultaneous with the rate case filing, FPL filed Docket No. 160061-EI, a petition requesting approval of its 2016 through 2018 Storm Hardening Plan, as required by Rule 25-6.0342, F.A.C., and Docket No. 160062-EI, its 2016 Depreciation and Dismantlement Study, as required by Rules 25-6.0436 and 25-6.04364, F.A.C.

2. On April 15, 2016, FPL filed a petition for limited proceeding to modify and continue its Incentive Mechanism (Petition). Accompanying the Petition was the direct

testimony of Sam Forrest, FPL Vice President of Energy Marketing and Trading. The Incentive Mechanism was approved as a four-year pilot program ending in December of 2016, as part of FPL's 2012 rate case settlement agreement by Order No. PSC-13-0023-S-EI.<sup>1</sup> The purpose of Incentive Mechanism is to allow FPL to retain a portion of any gains generated by its wholesale power transactions and other Incentive Mechanism activities, e.g., sale of natural gas storage and transportation rights, natural gas sales, and asset management agreements. [Petition at pgs. 3-4]

3. FPL has proposed three changes to the pilot program currently in place: 1) elimination of the 514,000 MWh threshold for recovery of variable operation and maintenance (O&M) costs associated with the various wholesale transactions to be replaced with an approach that nets economy sales and purchases and recovers or credits variable O&M on only the net amount; 2) lower the annual threshold for sharing with FPL from \$46 million to \$36 million; and 3) lower the variable O&M cost per MWh from \$1.51/MWh to \$0.97/MWh. FPL contends that these changes are consistent with the assumptions and calculations made in the current 2017 and 2018 MFRs and more closely match the status of FPL's existing Unit Power Sales (UPS) contracts. Finally, FPL is requesting that this modified Incentive Mechanism program be continued for an additional four years, terminating at the end of December 2020, consistent with the timing of its proposed rate base increases in Docket No. 160021-EI.

4. Consolidation of these four dockets is administratively efficient for the following reasons. First, the depreciation expense, dismantlement expense, capital expenditures, and O&M expenses associated with storm hardening capital expenditures are all included in FPL's MFRs

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<sup>1</sup> Order No. PSC-13-0023-S-EI, issued on January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company.

for the proposed 2017 and 2018 test years, as well as the capital and O&M expenses associated with the Okeechobee Energy Center scheduled to be placed into service in June of 2019. In sum, the 2016 Depreciation and Dismantlement Study, as well as the 2016-2018 Storm Hardening Plan, provide the details for the amounts found in the rate case MFRs. In order to fully develop the record in the rate case, Commission staff and all parties will be required to file discovery to develop more information about the 2016 Depreciation and Dismantlement Study and the 2016-2018 Storm Hardening Plan. In fact, staff, the Office of Public Counsel (OPC), and the Florida Industrial Power Users Group (FIPUG) have already filed interrogatories and requests for production of documents regarding these studies. The information is so embedded in the rate case MFR calculations that the requests to approve these studies are naturally and rationally included in the rate case. Second, consolidation would place all of the studies and all of the testimony associated with the studies in the rate case docket resulting in a consolidated, coordinated, and unified final hearing record. Third, the witnesses who support the MFRs are the same witnesses who support the 2016 Depreciation and Dismantlement Study as well as the 2016-2018 Storm Hardening Plan. Fourth, in FPL's 2005 and 2009 rate cases,<sup>2</sup> the 2005 and 2009 depreciation study dockets were consolidated with the rate cases.<sup>3</sup> Thus, consolidation of

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<sup>2</sup> Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company, Docket No. 080677-EI, In re: Petition for increase in rates by Florida Power & Light Company.

<sup>3</sup> Order No. PSC-05-0499-PCO-EI (Order No. PSC-05-0499), issued on May 9, 2005, in Docket No. 041291-EI, In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company; Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company; and Docket No. 050188-EI, In re: 2005 comprehensive depreciation study by Florida Power & Light Company; Order No. PSC-09-0311-PCO-EI, issued on May 7, 2009, in Docket No. 080677-EI, In re: Petition for increase in rates by Florida Power & Light Company and Docket No. 090130-EI, In re: 2009 depreciation and dismantlement study by Florida Power & Light Company.

the depreciation and storm hardening studies with FPL's rate case is consistent with past Commission practice.<sup>4</sup>

5. Finally, with regard to the Incentive Mechanism docket, consolidation with the rate case is also administratively efficient. The Incentive Mechanism methodology currently in place is unique to FPL and was part of the Revised Stipulation and Settlement approved by the Commission in the 2012 rate case.<sup>5</sup> The original methodology approved in the 2012 rate case, as well as the modified methodology proposed in Docket No. 160088-EI, reward FPL for engaging in wholesale transactions and other asset optimization activities by allowing FPL to share in a portion of any gains generated and be reimbursed for the variable O&M costs associated with those sales and activities. While recovery is through the Fuel Adjustment Clause, trued-up on an annual basis, the power plants generating these potential gains are part of FPL's rate base and the O&M expenses associated with the maintenance of those assets are also included in the MFRs. Further, this is an incentive for FPL to maximize the use of generation and other assets that are being paid for totally by ratepayers. FPL has also requested that its ROE be increased by 50 basis points as a reward for an exceptionally well run company with the lowest base rates in Florida and among the lowest in the country. In order to fully and accurately assess the appropriateness of awarding the ROE adder, all proposed incentives should be evaluated together at the same time. Continuation of the Incentive Mechanism is a policy decision which should be made in the context of a full rate case, not considered in isolation or as part of the Fuel Docket.

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<sup>4</sup> In the 2012 rate case settlement, the parties agreed that FPL would not be required to file a depreciation or dismantlement study during the term of the agreement, which ends in December, 2016. This agreement had the practical effect of keeping the 2009 depreciation rates in effect until the end of the settlement term.

<sup>5</sup> Order No. PSC-13-0023-S-EI, issued on January 14, 2013, in Docket No. 120015-EI, In re: Petition for increase in rates by Florida Power & Light Company.

6. Granting consolidation of these four dockets with the rate case will not adversely affect any party. Testimony supporting the 2016 Depreciation and Dismantlement Study was filed on March 15, 2016, as part of the rate case.<sup>6</sup> Testimony supporting the 2016-2018 Storm Hardening Plan was filed on March 15, 2016, as well.<sup>7</sup> Testimony supporting the Incentive Mechanism was filed on April 15, 2016, one month later.<sup>8</sup> The Order Establishing Procedure sets the deadline for Intervenor testimony as July 14, 2016.<sup>9</sup> However, all parties have agreed that Intervenor testimony can be moved up to July 7, 2016, and OPC has filed an Unopposed Motion to Modify Key Activities Dates and Discovery Timeframes requesting that modification to the prehearing schedule. Since the 2016 Depreciation and Dismantlement Study and 2016-2018 Storm Hardening Plan, and associated testimonies, were filed on the same date as the rate case testimony, no party can be harmed by the consolidation of those dockets. Likewise, all parties will have approximately three months to review and conduct discovery on one additional issue, the Incentive Mechanism.

7. In the past, when consolidation of dockets has been granted, the number of interrogatories, production of documents, and requests for admissions has been expanded. It is appropriate to do so in this case as well. Therefore, staff requests that the number of interrogatories, production of document requests, and requests for admission be expanded from 500 each to 850 each, including all subparts, consistent with the Commission's decision in Order No. PSC-05-0499-PCO-EI.

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<sup>6</sup> Testimony of Ned W. Allis.

<sup>7</sup> Testimony of Manuel B. Miranda.

<sup>8</sup> Testimony of Sam Forrest.

<sup>9</sup> Order No. 16-0125-PCO-EI, issued on March 25, 2016, in Docket No. 160021-EI, In re: Petition for rate increase by Florida Power & Light Company.

8. Rule 28-106.208, F.A.C., allows consolidation when separate matters “involve similar issues of law or fact, or identical parties” and when consolidation “would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.” For the reasons stated above, the requirements of Rule 28-106.208, F.A.C., have been met and Docket Nos. 160021-EI, 160061-EI, 160062-EI, and 160088-EI should be consolidated for all purposes.

9. Staff has contacted the parties to this docket and is authorized to represent that OPC and FIPUG have no position at this time on the motion; the Federal Executive Agencies, Walmart, the South Florida Hospital and Healthcare Association, and FPL support the motion.

RESPECTFULLY SUBMITTED, this 22nd day of April, 2016:

*/s/ Suzanne S. Brownless*

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	DATED: APRIL 22, 2016

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the MOTION TO CONSOLIDATE DOCKETS has been filed with Office of Commission Clerk and a copy has been furnished to the following by electronic mail, this 22nd day of April, 2016:

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