

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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FPSC - COMMISSION CLERK

In the Matter of:

DOCKET NO. 20170150-EI

PETITION FOR LIMITED  
PROCEEDING TO INCLUDE  
RELIABILITY AND  
MODERNIZATION PROJECTS IN  
RATE BASE, BY FLORIDA  
PUBLIC UTILITIES COMPANY.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 9

COMMISSIONERS  
PARTICIPATING: CHAIRMAN JULIE I. BROWN  
COMMISSIONER ART GRAHAM  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK

DATE: Tuesday, December 12, 2017

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: ANDREA KOMARIDIS  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

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P R O C E E D I N G S

CHAIRMAN BROWN: All right. Moving on to Item 9. Everybody is settled. All right.

Good morning, Ms. Buys.

MS. BUYS: Good morning, Commissioners. I'm Penelope Buys with Commission staff.

Item 9 addresses Docket No. 20170150-EI, Florida Public Utilities' Company's petition for limited proceeding to include modernization and storm-hardening projects in rate base.

FPUC requested to increase its total revenue requirement by approximately \$1.8 million, which represents total capital expenditures of approximately \$15.2 million associated with 17 projects.

Throughout the course of the docket, staff and the Office of Public Counsel issued multiple data requests regarding FPUC's petition. On November 28th, 2017, FPUC and OPC filed a joint motion requesting approval of a stipulation and settlement agreement which resolves issues in this case.

Per the agreement, FPUC would be authorized to increase rates and charges to generate approximately \$1.5 million of annual revenues.

1 This revenue requirement represents the total  
2 capital expenditures of approx- -- approximately  
3 \$13.5 million for 12 projects.

4 There have been 11 customer comments filed in  
5 this docket, opposing the rate increase.

6 FPUC and OPC are present today to summarize  
7 the agreement and to answer any questions you may  
8 have.

9 CHAIRMAN BROWN: Thank --

10 MS. BUYS: Thank you.

11 CHAIRMAN BROWN: Thank you.

12 And I guess we'll start with Ms. Keating.

13 MS. KEATING: Thank you, Madam Chair. Good  
14 morning, Chair, Commissioners. Beth Keating with  
15 the Gunster Law Firm here today on behalf of FPUC.

16 First of all, I want to thank you for allowing  
17 us to be here today to present this settlement --  
18 settlement and stipulation for your consideration  
19 and for allowing us to do so on an expedited basis.

20 And thank you to your staff, Commissioners,  
21 for working with us over the past few months, for  
22 really asking the tough questions and for helping  
23 to bring clarity to this process.

24 I would also be remiss if I didn't thank our  
25 partners in this agreement, J.R. Kelly and his team

1 at OPC. We've been appreciative of OPC's  
2 willingness to engage in constructive discussions  
3 with FPUC, which we believe have produced a fair  
4 result, and for further working with us to get this  
5 before you before the end of the year.

6 Commissioners, the settlement before you today  
7 has really had its genesis two years ago in the  
8 fuel docket. You may recall that, in 2015, FPUC  
9 sought approval to recover, through the Fuel  
10 Clause, the revenue requirement on a transmission  
11 interconnection facility with FPL that would enable  
12 FPUC to purchase power supplies from additional  
13 providers for its northeast division, which was  
14 going to expand its opportunities for competitive  
15 supply and was expected to reduce FPUC's fuel and  
16 power purchase costs beginning in 2018.

17 While the Commission approved FPUC's proposal,  
18 the Court ultimately determined that the Fuel  
19 Clause was not the appropriate vehicle for recovery  
20 of the revenue requirement on that capital asset.

21 The company, then, proposed a surcharge  
22 mechanism for purposes of recovering the revenue  
23 requirement on that FPL interconnect as well as  
24 several other facility improvement projects.

25 After productive and, quite frankly, very

1 candid discussions with OPC and your staff, the  
2 company, however, concluded that a rate case or a  
3 limited proceeding would be a less-controversial  
4 mech- -- mechanism for seeking recovery of these  
5 types of capital projects, which brings us here  
6 today.

7 A key driver in the company's planning has  
8 been to avoid a full base-rate case until its next  
9 purchase power agreements are in place, which is --  
10 would be 2020.

11 FPUC anticipates that this delay will enable  
12 the company to cushion the potentially-significant  
13 impact of a rate increase against expected  
14 offsetting fuel-charge reductions.

15 With this focus on customer impacts in mind,  
16 and recognizing that the optimal time frame for  
17 seeking a full base-rate increase would be just two  
18 short years into the future, the company elected to  
19 seek relief, on a more-limited basis, for a select  
20 group of key projects through this limited  
21 proceeding. The company sought limited relief,  
22 recognizing that the relief would simply delay, but  
23 not negate, the need for a full base-rate  
24 proceeding.

25 As this proceeding has evolved, the company

1 has responded to numerous data requests from your  
2 staff, as well as discovery from OPC. This was a  
3 productive process and opened a pathway for  
4 discussions with OPC regarding the potential for a  
5 mutually-beneficial resolution that would avoid  
6 further litigation.

7 Ultimately, those discussions were fruitful,  
8 as hoped, and resulted in the settlement and  
9 stipulation that's before you today. We think this  
10 is a good result by the company and its ratepayers,  
11 and it will provide the company with much-needed,  
12 albeit temporary, rate relief that will enable the  
13 company to delay a full base-rate case, while still  
14 allowing it to continue to pursue important capital  
15 projects that will further reinforce its system and  
16 enhance safety and reliability for its customers.

17 At the same time, customers will be assured  
18 that base rates will not be increased again until  
19 at least January 2020, unless an unexpected or  
20 potentially-catastrophic event impacts the  
21 company's revenues.

22 This settlement also contains additional  
23 beneficial provisions that address cost recovery  
24 through other mechanisms, as well as potential  
25 corporate tax changes and anticipated future tariff

1 filings.

2 You'll also note that some of these provisions  
3 in here are very similar to provisions that are in  
4 settlements that you've seen with other utilities  
5 over the past year.

6 And if I may, with your permission, Madam  
7 Chair, run through briefly some of the key  
8 provisions of settlement.

9 CHAIRMAN BROWN: Sure.

10 MS. KEATING: The key provision for FPUC is  
11 that it will be able to delay its next rate case  
12 because it will be authorized to increase its base  
13 rates and charges to generate an additional  
14 \$1,558,050 of annual revenues for purposes of  
15 recovering the revenue requirement on the projects  
16 identified in Attachment 1 to the settlement. This  
17 rate increase would be effective with the first  
18 billing cycle in January 2018.

19 Now, to promote clarity with regard to the  
20 projects that are included on Attachment 1 to the  
21 settlement, as compared to the projects that were  
22 included in the company's petition, the parties  
23 have specifically agreed that just because a  
24 project was in the original petition, but is not  
25 included in the settlement, should not be construed

1 as a determination that any of those projects were  
2 imprudent or wouldn't be appropriate for recovery  
3 through the company's next base-rate proceeding.

4 In fact, there are several active projects  
5 that are not on the settlement list, but which the  
6 company intends to inc- -- continue to pursue as  
7 projects and include in calculation of its revenue  
8 requirement in its next base-rate proceeding.

9 The company also will be allowed to seek  
10 recovery of costs through the recovery clause, but  
11 can't seek recovery of costs that it has  
12 traditionally and historically recovered through  
13 base rates.

14 It may also seek to recover costs associated  
15 with tropical systems named by the hurricane center  
16 as well as other catastrophic storm events causing  
17 damage to the company's system in an amount at  
18 least \$1 million.

19 Our agreement contemplates a \$4 cap on the  
20 monthly storm surcharge to be applied to bills and  
21 that the company would be allowed to recoup storm  
22 costs through the application of the storm charge  
23 up to restoration of a reserve of 1.5 million.

24 Now, this settlement applies to storm costs  
25 going forward from the point of the settlement.



1 This does not preclude the company from recovering  
2 storm costs associated with storm damage prior to  
3 the settlement such as damage associated with  
4 Matthew and Irma. But for those prior storm costs,  
5 the company would come in under the Commission's  
6 current rule as well as the provisions of its prior  
7 rate-case settlement.

8 The joint movants also agree and acknowledge  
9 that if the company is earning below its existing  
10 range and experiences an unanticipated and  
11 unforeseen event that is not otherwise addressed by  
12 the storm clause -- storm-recovery provisions, and  
13 that event has an adverse revenue impact of  
14 \$800,000 -- and that could be through a loss of  
15 revenues or an increase in expenses, and can also  
16 be the result of a single event or a series of a --  
17 contiguous, related events over a four-month  
18 period -- if that event occurs, then FPUC will be  
19 entitled to seek rate relief before the Commission.

20 The companies have also and -- the companies  
21 and OPC have also contemplated the possibility of  
22 tax reform. We've included provisions very similar  
23 to some other recent agreements that you have seen  
24 that contemplate that it would be revenue-neutral  
25 to the company, and that any tax relief would be

1 flowed back through the -- to the customers through  
2 a couple of different mechanisms.

3 Finally, FPUC will not be precluded from  
4 filing, and the Commission from approving, any new  
5 or revised tariff provisions or rate schedules  
6 requested by the company, provided that such tariff  
7 requests doesn't increase any existing base-rate  
8 component or any other charge imposed on customers  
9 during the term of the settlement, unless the  
10 application or charge or rate schedule is optional  
11 to FPUC's customers.

12 Commissioners, there are provisions here that  
13 help the company achieve its goal of delaying a  
14 full rate proceeding for two more years and the  
15 provisions that ensure FPUC's customers are  
16 protected during that two-year interim.

17 Is this settlement going to prevent FPUC from  
18 under-earning during the two-year interim? No, but  
19 that was never really the company's expectation.  
20 FPUC's goal in pursuing limited relief has merely  
21 been to achieve a level of relief sufficient to  
22 allow it to delay a rate case without impairing its  
23 ability to continue to pursue projects that will  
24 enhance the reliability and the safety of its  
25 system, which ultimately benefits its customers.

1           As such, Commissioners, this settlement is in  
2           the public interest. It's a good settlement for  
3           both the company and its customers. And we  
4           respectfully urge that you approve it.

5           Commissioners, we have several company  
6           representatives here, Mike Cassel, Cheryl Martin,  
7           Mark Cutshaw here to address any questions you may  
8           have. Otherwise, that concludes FPUC's comments.

9           CHAIRMAN BROWN: Thank you.

10          Ms. Christensen?

11          MS. CHRISTENSEN: Good morning, Commissioners.  
12          Patti Christensen, along with J.R. Kelly, the  
13          Public Counsel, and Charles Rehwinkel, on behalf of  
14          the citizens, with the Office of Public Counsel.  
15          We would like to thank the Commission for the  
16          opportunity to address this settlement and  
17          stipulation that was entered into between FPUC and  
18          OPC.

19          First, as stated by FPUC's attorney, we have  
20          gone through many iterations of FPUC's request for  
21          cost recovery of its capital projects. However, we  
22          believe that an adjustment to base rates is the  
23          appropriate way to recover the capital cost of  
24          projects that are the basis for this agreement.  
25          This includes the interconnection project with

1 FPL's system that will allow FPUC more options to  
2 contract for purchase power.

3 When FPUC filed its petition for a limited  
4 proceeding to adjust base rates for these capital  
5 projects, OPC started our review of this request.  
6 After extensive review of the numer- data --  
7 numerous data requests sent from FPUC, from staff,  
8 and discovery that we sent, OPC believes that this  
9 settlement and stipulation is a reasonable  
10 resolution of FPUC's request.

11 The settlement has a two-year base-rate-freeze  
12 provision before the company can seek to increase  
13 its base rates. The settlement and stipulation  
14 allows the company to continue to do capital  
15 projects that will increase the FPUC system  
16 reliability.

17 The settlement provides mechanism for storm  
18 cost recovery as well as a mechanism to address  
19 potential changes to the corporate taxes income  
20 changes -- in changes in rates.

21 And we believe that these provisions, along  
22 with the other provisions of the settlement and  
23 stipulation, benefit both FPUC and its customers.  
24 We further believe that the stipulation, when taken  
25 its to- -- taken in its totality is in the public

1 interest.

2 We thank you for the consideration of the  
3 stipulation and settlement on today's -- today on  
4 an expedited basis and respectfully request that  
5 you approve this settlement in its entirety.

6 And we are available to answer any questions  
7 you have for OPC. And we thank you for your time  
8 and consideration.

9 CHAIRMAN BROWN: Thank you, parties, for  
10 presenting that overview. And I think this is a  
11 very-straightforward settlement agreement. And  
12 it's as efficient as -- of a process that we have  
13 here today, as you can get. So, thank you for  
14 bringing those forth for our consideration.

15 Commissioner Polmann.

16 COMMISSIONER POLMANN: Thank you, Madam  
17 Chairman.

18 To Ms. Buys, you had mentioned customer  
19 comments. Could -- could you restate the number of  
20 comments that you received?

21 MS. BUYS: There was 11.

22 COMMISSIONER POLMANN: Okay. And what --  
23 generally, what were the nature of those comments?  
24 Were they concerning rates or other --

25 MS. BUYS: Rates.

1 COMMISSIONER POLMANN: Okay. Thank you.

2 Ms. Keating, is the utility currently under-  
3 earning --

4 MS. KEATING: As of --

5 COMMISSIONER POLMANN: Or --

6 MS. KEATING: As of September surveillance  
7 report, yes.

8 COMMISSIONER POLMANN: Okay. Anyone can  
9 answer it, or I can look to staff, but how long has  
10 that been the circumstance in an under-earning  
11 posture?

12 MR. CASSEL: Commissioner, I -- I would answer  
13 that in this way: We were in for a rate case in  
14 2014 and, at some point, around that time, it -- it  
15 was in a -- a fair earnings position.

16 COMMISSIONER POLMANN: Okay. Madam Chairman,  
17 I'll just leave it there. Thank you.

18 CHAIRMAN BROWN: Okay. Commission- -- are  
19 there any other questions by Commissioners?

20 Seeing none, we are ripe for a motion.

21 Commissioner Brisé.

22 COMMISSIONER BRISÉ: Thank you, Madam Chair.

23 As we typically do with settlements, after  
24 reviewing them and looking at all the information,  
25 we find that it's in the public interest. And I

1 find that this settlement is in the public interest  
2 and is going to make sure the customer receives the  
3 service that they are paying for at rates that make  
4 sense, and that whatever development that needs to  
5 happen in the interim will continue to happen.

6 So, with that, I move approval.

7 CHAIRMAN BROWN: Thank you, Commissioner  
8 Brisé.

9 Is there a second?

10 COMMISSIONER GRAHAM: Second.

11 CHAIRMAN BROWN: Is there any other  
12 discussion?

13 Seeing none, all those in favor, say aye.

14 (Chorus of ayes.)

15 CHAIRMAN BROWN: Motion passes unanimously.  
16 Thank you.

17 MS. KEATING: Thank you Commissioners.

18 CHAIRMAN BROWN: Thank you.

19 (Agenda item concluded.)  
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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, ANDREA KOMARIDIS, Court Reporter, do hereby  
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IT IS FURTHER CERTIFIED that I  
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DATED THIS 19th day of December, 2017.



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ANDREA KOMARIDIS  
NOTARY PUBLIC  
COMMISSION #GG060963  
EXPIRES February 9, 2021