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November 3, 1997

Blanca S. Bayo, Director
Florida Public Service Commission
Division of Records & Recording
2540 Shumard Oak Blvd. - Room 110
Tallahassee, FL 32399

Re: Docket No. **970410-EI**
Proposal to Extend Plan for the Recording of Certain Expenses for the Years
1998 and 1999 for Florida Power & Light Company

Dear Ms. Bayo:

Enclosed please find for filing with the Public Service Commission the original and 15 copies of rebuttal testimony of Mark A. Cicchetti and Thomas C. DeWard for filing in the above-referenced docket. 11244-97 11243-97

Thank you for your assistance in filing the above. Should you have any questions, please do not hesitate to contact the undersigned.

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Very truly yours,

SALEM, SAXON & NIELSEN, P.A.

Marian B. Rush

Marian B. Rush

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Enclosures

cc: Attached Service List

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(PSC DOCKET NO. 970410-EI)**

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ORIGINAL

FLORIDA POWER AND LIGHT

DOCKET NO. 970418-EI

**REBUTTAL TESTIMONY OF MARK A. CICCHETTI
ON BEHALF OF AMERISTEEL CORPORATION**

FILED NOVEMBER 3, 1997

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11294 NOV-36

FPSC-RECORDS/REPORTING

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 AMERISTEEL CORPORATION

3 REBUTTAL TESTIMONY OF MARK A. CICHETTI

4 DOCKET NO. 970410-EI

5 NOVEMBER 3, 1997

6

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9

Q Please state your name and address.

10

A My name is Mark Anthony Cicchetti and my
11 business address is 2947 N. UMBERLAND DRIVE,
12 TALLAHASSEE, FLORIDA 32308.

13

14

Q Are you the same Mark Anthony Cicchetti
15 who previously filed direct testimony in this
16 proceeding?

17

A Yes, I am.

18

19

Q What is the purpose of your rebuttal
20 testimony?

21

A The purpose of my rebuttal testimony is
22 to rebut certain presumptions and statements
23 proffered in the direct testimony of Mr. H. A.
24 Gower.

25

REBUTTAL TESTIMONY OF MARK A. CICHETTI

1 Q Do you agree with Mr. Gower that
2 extending the Plan to record additional expenses in
3 1998 and 1999 is reasonable and appropriate and
4 represents good regulatory policy?

5 A No, I do not. The basic premise of Mr.
6 Gower's testimony is that the Plan is reasonable
7 because it corrects prior under-recoveries of
8 capital and other costs without raising rates.
9 That reasoning does not justify approval of the
10 proposed plan extension for 1998 and 1999 for the
11 following reasons:

12
13 First, aggregating cost recovery of prior
14 period under-recoveries and accelerated recovery of
15 future costs into a two year period creates
16 intergenerational equity concerns that undermine
17 accepted ratemaking conventions that seek to spread
18 cost responsibility evenly among the customers that
19 receive the benefits associated with those costs.
20 Those concerns should not be disregarded without
21 good cause. In this case, there is no demonstrated
22 need for the alteration of cost recovery proposed
23 in the Plan extension. Equally important, the
24 amount of additional expense the Plan would
25 authorize to be charged in those two years is

REBUTTAL TESTIMONY OF MARK A. CICHETTI

1 staggering. These amounts, estimated to be as much
2 as \$842 million for 1998 and 1999, far exceed any
3 corrective or accelerated recovery the Commission
4 has previously allowed.

5
6 Second, there is no basis for approving
7 extension of the Plan to correct prior under-
8 recoveries of depreciation because all depreciation
9 reserve deficiencies previously identified have
10 been recovered.

11
12 Third, concerns relating to prior under-
13 recoveries simply do not apply to accelerated
14 recovery of regulatory assets. The current
15 ratemaking treatment for regulatory assets is
16 appropriate and there is no evidence that justifies
17 accelerating the recovery of those costs.

18
19 Fourth, one time recovery of perceived
20 underfunding of nuclear decommissioning and fossil
21 dismantlement costs (for which the cash outlays
22 will be incurred a dozen or more years in the
23 future) is unfair to current ratepayers. The
24 Commission should not base full recovery of a
25 perceived reserve deficiency on a single snapshot

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1 estimate because those estimates are subject to
2 periodic revisions, particularly as the industry
3 gains more experience with decommissioning. In
4 fact, in Docket No. 810100-EU, the Commission
5 concluded: decommissioning costs should be accrued
6 in equal annual amounts; decommissioning costs
7 should be accounted for separately; and
8 decommissioning costs should be reviewed and, if
9 necessary, changed no less often than every five
10 years.

11
12 Experience has shown utility regulators
13 that long-term projections of costs, such as the
14 rate of inflation (or the price of oil; one of the
15 reasons for the Public Utility Regulatory Policy
16 Act of 1978 (PURPA) was the fear that the cost of a
17 barrel of oil would rise, by some estimates, to as
18 much as \$100 by the year 2000), are subject to
19 significant risk of error the longer the range of
20 the forecast. Requiring a one-time "correction" of
21 \$484 million for a perceived deficiency for the
22 funding of nuclear decommissioning places all of
23 the risk associated with forecasting errors on
24 ratepayers in 1998 and 1999.

25

REBUTTAL TESTIMONY OF MARK A. CICCHETTI

1 Furthermore, the Commission authorized an
2 increase in FPL's accrual for nuclear
3 decommissioning expense from \$38 million to \$85
4 million in 1995. This revised annual accrual
5 should correct, over the remaining life of the
6 nuclear units, any deficiencies identified in 1995
7 (Order No. PSC-95-1531-FOF-EI, page 15). The
8 comprehensive studies to be filed for both fossil
9 dismantlement and nuclear decommissioning in 1998
10 should allow the Commission to determine if any
11 further change in the annual accrual is necessary.
12

13 Q Mr. Gower equates the Plan's accounting
14 requirements to prior Commission actions that
15 allowed accelerated recovery of invested capital
16 over relatively short periods of time without
17 affecting rates (Gower direct, Page 7, lines 10-
18 25). Is the action proposed by the Plan for 1998
19 and 1999 comparable to the prior Commission actions
20 cited in his testimony?

21 A No. There are basic differences between
22 the Plan proposed for 1998 and 1999 and those prior
23 Commission actions.
24

25 First, none of the prior Commission

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1 actions imposed costs over such a short period of
2 time in the magnitude allowed under the Plan.
3 Under the proposed Plan, over \$840 million could be
4 written-off in 1998 and 1999. The sheer magnitude
5 of the amounts to be recovered under the Plan (over
6 \$1.1 billion over 4 years) brings into question the
7 fairness and intergenerational equity of charging
8 such a large amount to current ratepayers over such
9 a short period of time. Moreover, under normal
10 ratemaking treatment, the Company will recover its
11 prudently incurred costs over time and remain
12 whole.

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Second, in the cases cited by Mr. Gower on pages 7 and 8 of his direct testimony, the Commission addressed early or accelerated recovery of known and verified costs (e.g., major overhaul and asbestos abatement cost)(Gower deposition, page 60, lines 1-10). In each case, the amounts to be recovered were not subject to revisions, re-estimation, or changed assumptions. However, in this case, the amounts are either appropriately attributable to future periods or are subject to revision, reestimation, or changed assumptions.

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1 The proposed extension of the Plan
2 addresses three basic categories of expenses:

3 1.) Depreciation reserve deficiencies
4 (i.e., an inadequacy in the reserve)

5 2.) Accelerated recovery of regulatory
6 assets (book-tax timing differences, unamortized
7 losses on reacquired debt); and

8 3.) Correction of theoretical reserve
9 deficiencies "if any," relating to funding for the
10 expected future cost of nuclear decommissioning and
11 fossil dismantlement.

12

13 Q Please address the correction of the
14 depreciation reserve deficiencies.

15 A Identified depreciation reserve
16 deficiencies were corrected over the period 1995-
17 1997. Thus, there are no identified under-
18 recoveries of known depreciation costs to justify
19 continuation of the Plan 1998 and 1999 for this
20 purpose.

21

22 Q Please address accelerated recovery of
23 regulatory assets as the basis for approving
24 extension of the plan for 1998 and 1999.

25 A The justification of correcting prior

REBUTTAL TESTIMONY OF MARK A. CICCHETTI

1 period under-recoveries simply does not apply to
2 accelerated recovery of regulatory assets. There
3 is no identified historical under-recovery of these
4 costs and no evidence that their eventual recovery
5 is threatened by potential competitors. Normal
6 Commission practice is to have FPL recover these
7 costs from ratepayers over time. To allow FPL to
8 charge these costs to current ratepayers, in
9 addition to the costs allowed in rates, is not
10 justified by the reasons given by Mr. Gower and is
11 unfair to current ratepayers, particularly when
12 decreased costs are not taken into consideration.

13

14 Q Please address the correction of the
15 fossil dismantlement and nuclear decommissioning
16 reserve deficiencies.

17 A The Plan proposes to allow nearly \$500
18 million of expense to correct a perceived
19 deficiency in FPL's nuclear decommissioning
20 reserve. However, as acknowledged by Mr. Gower,
21 engineering estimates, inflation rates, and other
22 escalators and input assumptions regularly are
23 revised as the industry gains experience with
24 actual decommissioning projects and as
25 circumstances change (Gower deposition, page 64,

REBUTTAL TESTIMONY OF MARK A. CICCHETTI

1 lines 9-15).

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A reasonable way of dealing with the changing conditions while ensuring proper funding of nuclear decommissioning reserves is to require periodic examination of decommissioning cost estimates and adjust annual accrual rates where warranted. This, of course, is the Commission's current practice. The Commission increased FPL's annual accrual of decommissioning costs from \$38 million to \$85 million for that purpose in 1995. This increase in the annual accrual, based on the most recent assumptions and estimates used in the Company's last comprehensive nuclear decommissioning study, was intended to correct the identified deficiency over the life of the assets. The comprehensive studies to be filed in 1998 should allow the commission to determine if any further change in the annual accrual is necessary.

Requiring FPL's customers in 1998 and 1999 to bear the full brunt of the current \$484 million theoretical deficiency for nuclear decommissioning, along with the hundreds of millions of dollars associated with the other items

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1 should be considered before changing the method of
2 cost recovery for a regulated utility. Unregulated
3 companies do not set their prices based on cost of
4 service as do regulated companies. Unregulated
5 companies charge prices that the market will bear
6 and their prices are constrained by the forces of
7 competition. If an unregulated company writes-off
8 losses on reacquired debt when those costs are
9 incurred, there are, essentially, no pricing
10 implications.

11
12 However, customers of regulated utilities
13 do not have the benefit of competitive forces to
14 keep a regulated utility's prices in check.
15 Consequently, regulators rely on cost based pricing
16 to match the costs and benefits of the services
17 provided. There is no justification to place the
18 full loss on reacquired debt on ratepayers in 1998
19 and 1999. The loss on reacquired debt is not a
20 deficiency associated with previously unrecovered
21 costs similar to a depreciation reserve deficiency.
22 To allow FPL to charge almost \$300 million of
23 unamortized loss on reacquired debt to ratepayers
24 over a two year period places an unfair burden on
25 ratepayers in those years.

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1 in the Plan, is unreasonable from an
2 intergenerational equity perspective, and places
3 those customers alone, at risk if the comprehensive
4 studies indicate the perceived deficiencies were
5 overstated.

6
7 Q Mr. Gower states that "an additional
8 purpose of the proposed agency action is to
9 facilitate establishing "...a level "accounting"
10 playing field between FPL and possible non-
11 regulated competitors" (Gower direct, Page 5, lines
12 20-22). Does this "additional purpose" justify the
13 accelerated recovery of regulatory assets such as
14 the unamortized loss on reacquired debt?

15 A No. Mr. Gower has presented no evidence
16 to suggest that FPL's recovery of the unamortized
17 loss on reacquired debt is threatened by potential
18 unregulated competitors. There are many
19 ramifications that should be considered with regard
20 to establishing a level accounting playing field
21 with potential non-regulated competitors.

22
23 For example, there are considerable
24 differences in the economics underlying the pricing
25 practices of regulated and unregulated firms that

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1 Recovering approximately \$300 million of
2 unamortized loss on reacquired debt from ratepayers
3 over a two year period results in significant
4 intergenerational inequity. Ratepayers in the
5 future will enjoy the benefits of reduced interest
6 expense associated with the reacquired debt. Under
7 the concept of intergenerational equity, it is
8 inappropriate to force current ratepayers to bear
9 the costs of reacquiring the debt so that future
10 ratepayers can enjoy a cost of debt below the "net"
11 cost of debt. If FPL's charges for 1997 are broken
12 down into cost of service components, the cost of
13 debt for 1997 ratepayers, as a result of the Plan,
14 will be significantly higher (possibly over \$200
15 million higher) than the cost of debt for both past
16 and future ratepayers. There is no valid
17 justification for this discrepancy.

18
19 The treatment of unamortized loss on
20 reacquired debt should be no different than the
21 treatment of debt issuance expense. It is
22 Commission practice, and standard practice in the
23 industry, to amortize debt issuance expense over
24 the life of the debt. The cost of debt for
25 ratemaking purposes is the interest expense plus

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1 the amortization of the issuance costs divided by
2 the principal amount of the debt less the
3 unamortized issuance cost. The result being that
4 issuance costs are spread over time,
5 intergenerational equity is achieved, and the
6 company remains whole. I am not aware of any
7 theory of regulation that suggests issuance expense
8 should be charged to ratepayers at the time it is
9 incurred while a cost of debt below the net cost of
10 debt is charged to ratepayers in the future. Yet,
11 that is what is allowed by the Plan with regard to
12 the unamortized loss on reacquired debt.

13

14 Finally, the Uniform System of Accounts
15 requires the unamortized loss on reacquired debt to
16 be amortized over the remaining life of the
17 original debt if there was not a refunding. If
18 there was a refunding, and the amount is
19 significant, the loss must be amortized over the
20 remaining life of the original debt or spread over
21 the life of the new issue. The Uniform System of
22 Accounts' requirements support the conclusion that,
23 to achieve intergenerational equity, the loss on
24 reacquired debt should be amortized as I am
25 recommending.

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The Commission has not initiated a rulemaking or other proceeding on competition in the electric industry, but it has indicated there may be a generic proceeding on potential stranded costs at some point. Accelerated recovery of regulatory assets to offset potential stranded costs should be considered in such a proceeding.

Q Mr. Gower claims on pages 5 and 6 of his direct testimony that the accounting directives contained in the PAA do not represent a departure from the Commission's normal exercise of its authority. Do you agree with that characterization?

A No. Although authorization of the Plan is within the Commission's jurisdiction, the Plan represents a departure from the Commission's normal exercise of its authority. In fact, Commission approval of the accounting directives for 1998 and 1999 is required because they constitute a change from normal practice. The plan, particularly in the magnitude proposed in this docket, is far from standard operating procedure. The Commission has allowed corrections of unrecovered costs and

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1 reserve deficiencies in the past where the costs
2 were known and verified. As acknowledged by Mr.
3 Gower (Gower deposition, page 42 lines 14-17), the
4 Commission has not previously authorized expenses
5 of this magnitude to be charged over a short period
6 of time.

7
8 Q Do you agree with the statement made by
9 Mr. Gower that the items addressed in the Plan
10 represent "prudently incurred costs" which FPL is
11 entitled to recover by inclusion in its regulated
12 cost of service and the accounting directives
13 contained in the Commission's proposed agency
14 action deal only with the timing of the recovery of
15 these costs." (Gower Direct, page 5, lines 15-18)

16 A No, I do not. FPL has reacquired
17 significant amounts of debt resulting in an
18 excessive amount of equity in its capital
19 structure. By reacquiring substantial amounts of
20 debt, FPL replaced a tax deductible source of
21 financing with a higher cost, non-tax deductible
22 source of financing that: 1.) Increased FPL's
23 after-tax overall cost of capital relative to what
24 it would have been otherwise; 2.) Increased the
25 dollar return to investors, and; 3.) Reduced the

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1 amount of potential overearnings. The Plan allows
2 FPL to charge ratepayers almost \$300 million over a
3 two year period for the costs associated with
4 reacquiring this debt, thereby allowing imprudently
5 incurred costs and creating significant
6 intergenerational inequity.

7
8 In my opinion, it does not represent good
9 regulatory policy to allow a utility to charge such
10 a large amount above and beyond its authorized
11 rates, particularly over such a short period of
12 time, without thoroughly investigating the prudence
13 of the costs involved and the associated impacts.

14
15 Furthermore, Mr. Gower's contention that
16 recovery of the items addressed in the Plan only
17 relate to the timing of recovery assumes the
18 upcoming fossil dismantlement and nuclear
19 decommissioning reserve studies will not reduce the
20 estimated amount of future dismantlement and
21 decommissioning expense. However, as noted above,
22 Mr. Gower offers no evidence to this effect. In
23 fact, Mr. Gower admitted at his deposition that
24 future studies may include changes to basic
25 assumptions such as engineering analyses and

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1 inflation rates (Gower deposition, page 64, line
2 14).

3
4 Consequently, the Plan does not simply
5 address the timing of the recovery of prudently
6 incurred costs as stated by Mr. Gower. The Plan
7 allows imprudent costs and significant perceived
8 costs (over \$500 million) that are subject to
9 revision and reestimation. With regard to the
10 timing of the recovery of the items listed in the
11 Plan, it is important to note that, even without
12 the Plan, FPL has no reason to believe it will not
13 recover the costs listed in the Plan that were
14 prudently incurred (Gower deposition, page 82,
15 lines 4 -9). Furthermore, the available evidence
16 indicates these costs would be recovered without a
17 rate increase.

18
19 Q Do you have any further response to Mr.
20 Gower's testimony?

21 A Yes. Mr. Gower failed to offer adequate
22 justification for the proposed Plan. There is no
23 evidence FPL is in danger of not earning its
24 authorized rate of return and no evidence that
25 recovery of the costs identified in the Plan are in

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1 jeopardy. Unlike Docket No. 950359-EI, there is no
2 petition from FPL and Mr. Gower's testimony fails
3 to give any reasons that demonstrate a need to take
4 the additional charges that the Plan would
5 authorize for 1998 and 1999. There is no
6 indication that the normal practice for treating
7 unamortized loss on reacquired debt is in any way
8 inadequate and Mr. Gower has not attempted to show
9 that periodically adjusting the annual accrual for
10 nuclear decommissioning, as the commission did for
11 FPL in 1995, will not adequately ensure recovery of
12 authorized funding for decommissioning over the
13 operating lives of FPL's nuclear units.

14
15 Absent such a demonstrated need, the
16 Commission should reassess the reasonableness of
17 aggregating added charges as expense in 1998 and
18 1999. Aggregating such charges postpones a
19 reduction in FPL's rates. The presumption in this
20 docket should be that the normal ratemaking
21 treatment for the identified expenses is reasonable
22 and there should be a demonstrated need for
23 changing the established cost recovery mechanisms.
24 Mr. Gower's testimony begins with the conclusions
25 in the PAA, but offers no showing that FPL needs

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1 the accounting treatment proposed in the Plan.
2 Further, there is no indication FPL has any plans
3 to seek a base rate increase in the foreseeable
4 future. Mr. Gower's general reference--that the
5 long-term benefits of the Plan are that rates will
6 not increase in the future to recover these costs--
7 seems altogether inapt under the circumstances.
8 Absent the additional allowed expenses, FPL would
9 be in a significant overearnings situation. The
10 added expenses alone, under the Plan, could
11 approach 7 percentage points on equity by 1999 (the
12 estimated maximum additional expenses (MAC Exhibit
13 2)divided by the dollar equivalent revenue
14 requirement impact for one percentage point on
15 equity is $480 \text{ million} / 70 \text{ million} = 6.85$). Overall,
16 FPL's revenues (rising) and costs of service
17 (falling) indicate base rates should be declining.
18 This fact is reflected in staff's acknowledgment
19 that absent the enormous additional expenses
20 authorized by the Plan for 1998 and 1999, FPL would
21 experience excess earnings.

22

23 Q Does this conclude your rebuttal
24 testimony?

25 A Yes, it does.