

FLORIDA PUBLIC SERVICE COMMISSION  
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M E M O R A N D U M

DECEMBER 12, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF AUDITING & FINANCIAL ANALYSIS (SLEMKEWICZ, CAUSSEAU, JONES, LEE, MAUREY, MCNULTY) *JS 12-23*  
DIVISION OF ELECTRIC & GAS (COLSON, GING) *APC DM WBN*  
DIVISION OF LEGAL SERVICES (ELIAS, KEATING, CRUZ-BUSTILLO) *scB RVE WCK ALM JDJ*

RE: DOCKET NO. 970410-EI - FLORIDA POWER & LIGHT COMPANY - PROPOSAL TO EXTEND PLAN FOR RECORDING OF CERTAIN EXPENSES FOR YEARS 1998 AND 1999 FOR FLORIDA POWER & LIGHT COMPANY

AGENDA: 12/16/97 - REGULAR AGENDA - POST HEARING DECISION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\APA\WP\970410A.RCM

CASE BACKGROUND

In Docket No. 950359-EI, the Commission approved a proposal by Florida Power & Light Company (FPL or the Company) that resolved all of the identified issues regarding FPL's petition to establish a nuclear amortization schedule. Pursuant to Order No. PSC-96-0461-FOF-EI, issued April 2, 1996, FPL was required: (1) to book additional 1995 depreciation expense to the historic reserve deficiency in nuclear production; (2) to record, commencing in 1996, an annual \$30 million in nuclear amortization, subject to final determination by the Commission as to the accounts to which it is to be booked; and (3) to record an additional expense in 1996 and 1997 based on differences between actual and forecasted revenues, to be applied to specified items in a specific order. The Commission voted to extend the Plan for 198 and 1999 through Proposed Agency Action (PAA), Order No. PSC-97-0499-FOF-EI. The proposed Plan is presented on Attachment B. AmeriSteel Corporation (AmeriSteel) protested the Commission's action. An evidentiary hearing was held on November 25, 1997.

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FPL RECORDS/REPORTING

### DISCUSSION OF ISSUES

ISSUE 1: What is the appropriate revenue forecast to be used to determine the level of additional expenses allocated to this Plan?

RECOMMENDATION: FPL's 1996 Revenue Forecast (including Most Likely Revenue equal to \$3,224.1 million and Low Band Revenue equal to \$3,140.9 million) is the appropriate revenue forecast to use to determine the level of additional expenses, or write-offs, allocated to the Plan. (McNulty)

### POSITION OF PARTIES

FLORIDA POWER & LIGHT COMPANY: FPL's 1996 base rate revenues forecast is an appropriate benchmark which simply quantifies the amount of additional expenses. This benchmark provides a greater degree of earnings risk to FPL and additional incentive to FPL management to control costs; but, the Company believes it is important to correct the cost underrecoveries.

AMERISTEEL CORPORATION: Additional expenses should be based on verified costs and a demonstrated need for recovery rather than an authorized "pool" of added expense dollars designed to offset revenue growth.

STAFF ANALYSIS: This docket was established to address the underrecovery amounts identified in Issues 2-6 of this recommendation. (See Attachment A) The proposed Plan would require an annual write-off (expense) to address these underrecoveries, based upon a two-part calculation. The first part is the difference between the 1996 Most Likely Revenue Forecast (\$3,224.1 million) and the 1996 Low Band Forecast (\$3,140.9 million). (See Attachment B) This amount is \$83.2 million. The second part is identified as at least half the difference between the actual annual revenue during the period of the Plan (1998-1999) and the 1996 Most Likely Revenue. Thus, the 1996 Revenue Forecast would serve as a benchmark in determining write-offs. This benchmark could feasibly be replaced with any number of other benchmarks, such as the 1997 or 1998 Revenue Forecast, or any other discreet revenue amount selected for purpose of comparison to actual 1998 and 1999 revenue.

FPL Witness Gower stated that the use of the 1996 revenue forecast as a benchmark for determining write-offs in this docket is reasonable. He warned that the use of revenue forecasts for years later than 1996 as a benchmark could decrease the amount of

write-offs in 1998 and 1999. He argued that this would delay and increase the risk of recovery of the costs in question. (TR 33-34)

AmeriSteel Witness Cicchetti indicated that accelerated amortization should be based upon need and should not be a function of FPL's growth in revenue. He argued that the Plan allows FPL to accelerate expenses that are appropriately attributable to future periods or are subject to revision, reestimation, or changed assumptions. (TR 260 and 281) He stated, "If the Commission allows recovery of the expenses allocated to the Plan, the Commission should simply direct FPL to write-off those amounts over an appropriate period." (TR 270-271) Based on this argument, using the 1996 revenue forecast as a benchmark for determining write-offs is unnecessary.

While there are many revenue benchmarks which could potentially be used to determine write-offs in this docket, it is important to identify the criteria for selecting the appropriate benchmark. Staff believes the appropriate revenue benchmark is one which: 1) allows the Company to address the remaining underrecoveries as expeditiously as possible, and 2) provides incentive for the Company to control expenses, and 3) assumes minimal impact upon existing customer rates. Each of these criteria is addressed below.

First, Staff believes the appropriate benchmark should allow the Company to write-off the remaining underrecoveries as expeditiously as possible. Staff believes the concept of expeditious recovery, rather than extended recovery, is appropriate for the reasons detailed in Staff's Recommendation in Issues 2-6. In order to determine whether the Plan is expeditious, it is necessary to compare the size of the problem (the amount of underrecoveries) to the size of the proposed solution (the forecasted write-offs). The total underrecoveries as of 1/1/98, per staff recommendations in Issues 2-6, will be approximately \$768.4 million. (See Attachment A) Based on FPL's forecasted 1998 and 1999 revenue and the 1996 Revenue Forecast benchmark, the forecasted 1998-99 minimum write-off amount is \$464.0 million. (EXH 7, pg. 1) While the forecasted minimum write-offs are considerably less than the total underrecoveries, it is evident that more than half of the total underrecoveries would be written off during 1998 and 1999, the period during which the Plan is in effect. If the projected minimum write-offs were the amount actually expensed rather than some higher write-off amount, the Plan would be expected to partially address the underrecovery problem, leaving \$304.4 million in remaining underrecoveries by the end of 1999.

If the Company wrote off expenses based, in part, upon one-hundred percent of the difference between the forecasted annual revenue and the 1996 Most Likely Revenue Forecast, so that total write-offs were increased to \$761.6 million for 1998 and 1999, such expenses would still be less than the identified underrecoveries by \$6.8 million (\$768.4 million less \$761.6 million). (EXH 8, pg. 23) Thus, while FPL is required to write off more than half of the identified underrecovery amount per the Plan, it appears unlikely that the Company will write off all of the underrecoveries during the period (1998 and 1999). According to the Plan, any required write-off amount in excess of the approved underrecoveries must be credited to an unspecified depreciation reserve. (See Issue 5) It appears unlikely that a large amount would be credited to the reserve. Staff believes that this Plan is expeditious in addressing the forecasted underrecoveries. However, additional time beyond the period of the Plan may be required to completely address all remaining underrecoveries.

Second, the use of an appropriate revenue benchmark should result in an incentive for FPL to control operational expenses. AmeriSteel Witness Cicchetti asserted that the Plan removes management incentives for efficiency associated with traditional ratemaking practices. He claimed that FPL may choose to forego writing-off certain expenses allowed under the Plan and instead incur certain operational expenses the Commission might not normally allow. (TR 265-266) FPL Witness Gower counters that the requirement of the Plan is for FPL to record significant additional Plan-related expenses each year of the Plan. This requirement is achieved by capturing potential revenue growth for write-off purposes and is therefore not available to offset operational expense increases. According to Witness Gower, "This heightens -- not eliminates -- the pressure to control expenses or suffer earnings below authorized levels." (TR 394)

Staff believes that basing write-offs on the 1996 revenue forecast benchmark gives FPL an incentive to write-off as much of the approved expenses as possible, as soon as possible. Using the 1996 revenue forecast benchmark, the Company projects that it must write off, at a minimum, \$203 million in 1998 and \$261 million in 1999, compared to the 1997 expected write-off of \$162 million. (EXH 7, pg. 1) This means that FPL's base revenues must increase at least \$41 million more than FPL's operational expenses in 1998 compared to 1997 in order to satisfy the required minimum write-off. This assumes: 1) the Company books total write-offs during 1997 of approximately \$162 million, which FPL Witness Gower has asserted and, 2) annual revenue increases are realized based upon normal customer growth and normal use-per-customer growth, per the

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Company's forecast and, 3) FPL experiences no reduction in current earnings in 1998. (TR 108 and 413) Under the Plan, the Company has an incentive to minimize its operational expenses in order to achieve the forecasted minimum write-off requirement while still protecting its current earnings level. In this respect, the Company's current earnings may be in jeopardy if it fails to sufficiently control operational expenses.

Finally, the use of an appropriate revenue benchmark should not be based upon significant increases or decreases in customer rates. By basing write-off requirements on the 1996 Revenue Forecast, the Plan requires no change in existing customer rates. The write-offs are a fall-out of the existing rates. According to FPL Witness Gower, the Plan would "accomplish these corrections without increasing FPL's rates to current customers." (TR 21)

In summary, because the 1996 revenue forecast benchmark allows expeditious recovery of underrecovered costs, offers an incentive to minimize operational expenses, and requires no change in existing rates, Staff believes it is an appropriate benchmark to use to determine the additional expenses, or write-offs, allocated to the Plan.



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ISSUE 2: Should the Commission defer a decision to allow any additional decommissioning or dismantlement expense until there has been a full examination of FPL's nuclear decommissioning and fossil plant dismantlement studies?

RECOMMENDATION: No. Based on the base cost estimates and assumptions that underlie FPL's currently prescribed nuclear decommissioning and fossil dismantlement annual accruals, FPL has identified and quantified an existing reserve deficiency for nuclear decommissioning and for fossil dismantlement as of December 31, 1996. (Response to Staff Interrogatory 3, EXH 7) This historic failure to recover in the past demonstrates that correction as quickly as practical to reduce the spread of the mistatement into the future is required. While the 1998 studies will provide an update of this calculated deficiency, it is evident that a deficiency does exist and that the Commission need not defer a decision to correct the deficiency until the new studies are filed. The new studies will simply quantify the amount of the deficiencies at that time. At the time the reserve deficiencies are corrected, the annual accrual amounts should be revised to take that correction into consideration. (Lee)

#### POSITION OF PARTIES

FLORIDA POWER & LIGHT COMPANY: No. There is no benefit in deferring a decision. It is clear that reserve deficiencies exist since nuclear decommissioning alone is calculated to be \$484 million deficient at December 31, 1996. The Commission still will determine the final amount of reserve deficiencies which will be the ultimate basis for amounts recorded.

AMERISTEEL CORPORATION: Yes. In 1995, the Commission provided adequate annual accruals for nuclear decommissioning. Changes in any of the major inputs into decommissioning and fossil dismantlement cost estimates could radically alter, or eliminate altogether, the perceived deficiency claimed in this docket. Because estimation methods and inputs are subject to future revision, particularly as the industry gains more experience in such matters, a one-time write-down of a perceived deficiency at any given time represents an ill-considered regulatory policy.

#### STAFF ANALYSIS:

##### FPL's Position

FPL's Witness Gower presented testimony on this issue. As Witness Gower explained, FPL determined the nuclear decommissioning

and fossil dismantlement reserve deficiencies by comparing what accrual would have been booked if the now-current estimates had been known and applied to each unit from its original in-service date to December 31, 1996. That amount was then compared to the book reserves which resulted in reserve deficiencies for nuclear decommissioning and fossil dismantlement. (TR 85, Composite EXH 7, pg. 12 and 59-69) Witness Gower also acknowledged that the decommissioning and dismantlement annual accruals should be adjusted at the time these deficiencies are corrected, in the course of the review of the 1998 decommissioning and dismantlement studies. (TR 88)

Witness Gower testified that the identified reserve deficiencies associated with nuclear decommissioning and fossil dismantlement meant that FPL should have recorded and recovered higher expenses in prior years. (TR 24) According to Witness Gower, the demonstrated importance of FPL's correcting these deficiencies is evidenced by the Commission's orders approving the annual decommissioning and dismantlement accruals. (TR 25, 83-84) Additionally, Witness Gower asserts that FPL's units have, on average, been in service for 50% of their estimated useful lives. However, as of December 31, 1996, the decommissioning reserve amounted to less than 12% of the estimated total future expenditures to be made for decommissioning costs. (TR 88) Further, the provision for fossil dismantlement was not begun until 1987, while the in-service dates of many of the units in question date back 20 years prior to 1987. These facts, Witness Gower opines, demonstrate that the reserves should be corrected. (TR 401) For this reason, Witness Gower recommends that the Commission not delay the recovery of these deficiencies until new dismantlement and decommissioning studies are filed in 1998. (TR 25)

Further, Witness Gower testified that correction of the nuclear decommissioning and fossil dismantlement reserve deficiencies over a time period shorter than the remaining life of the associated plants is consistent with prior Commission actions. (TR 26) He explained that reserve deficiencies can be recovered over the remaining life of the associated plant or over a much faster period of time. (TR 26) He referenced various orders where the Commission has corrected reserve deficiencies over relatively short periods of time. (TR 26) Since the corrections reduce the amount of required investor capital, Witness Gower asserts that it is in the customers' best interest to accomplish the corrections as soon as possible. (TR 26)

Because the reserve deficiencies represent costs that should have been recovered in prior years, intergenerational equity suggests that these deficiencies be recovered quickly so that future ratepayers are not burdened with an unfair share. (Gower, TR 30; Cicchetti, TR 373) The primary purpose of the Plan is to correct past deficiencies. This correction is not an acceleration of expenses appropriately attributable to future periods but is, in fact, remedial in that it addresses expenses appropriately attributable to prior years and therefore corrects intergenerational inequities. (Gower, TR 396, 407, 409) The intergenerational inequity has already occurred and, if not corrected by the Plan, will only become more inequitable. (Gower, TR 396)

Additionally, Witness Gower testified that prompt correction of these deficiencies is fair to FPL's customers because it will lower costs in the long-run and allow rates to remain stable. (TR 27 and 34) He cited Commission Order No. 12149, issued June 17, 1983, in which the Commission stated that increasing the reserve for depreciation "...is appropriate because a reduction in rate base can be more favorable to customers...because there will be less investment for the customers to support." (TR 28) In making these corrections, Witness Gower asserts that long run revenue requirements will be reduced, benefitting customers served by FPL for the longer term. (TR 38)

Witness Gower also explained that the correction of the nuclear decommissioning reserve deficiency will not result in any cash flow benefit to FPL because the nuclear decommissioning reserve is required to be funded. (TR 29-30) Placing additional expense in the external fund will provide assurance to the Commission and FPL's customers that the financial resources to meet the decommissioning cost obligations will be available when needed. (Gower, TR 30)

#### AmeriSteel's Position

AmeriSteel's Witness Cicchetti testified that there is no demonstrated need to allow the write-off of the nuclear decommissioning and fossil dismantlement reserve deficiencies in 1998 and 1999. (TR 241-243) AmeriSteel, in its Brief, argues that such a write-off represents a dramatic, fundamentally unsound and unexplained departure from well established Commission policy. (BR 14) Witness Cicchetti asserts that the magnitude of the additional expenses and the estimation of these expenses indicate that a comprehensive review of the 1998 studies should be made to determine if there actually is a need. (TR 271) Additionally, he



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testified that there is no evidence that FPL's claimed deficiencies are life-related and whether there are intergenerational equity concerns. (TR 272)

Witness Cicchetti submitted that FPL's nuclear decommissioning accrual prescribed in 1995 was designed to correct any deficiencies over the remaining life of the nuclear units. (TR 242) The decommissioning and dismantlement studies to be filed in 1998 will allow the Commission to determine if any further changes in the annual accruals are necessary. (TR 242) Witness Cicchetti submitted that there is no indication that periodically adjusting the decommissioning and dismantlement annual accruals will not adequately ensure recovery over the remaining lives of the associated units. (TR 243)

AmeriSteel argues that the decommissioning and dismantlement deficiencies are not significant amounts of known and verifiable costs that should be addressed in any other fashion than recovery over the remaining life. (Cicchetti TR 281, BR 13) Witness Cicchetti asserts that such long range estimates of future costs are inherently inaccurate and regulatory, technological, and other factors may materially change. (TR 279, 281, and 283) He therefore concluded that the Commission's long established policy correctly requires periodic updates of those studies and adjustments as appropriate to the annual accruals to assure full recovery over the remaining lives of the assets. (TR 280)

Further, Witness Cicchetti submitted that a one-time recovery of the perceived nuclear decommissioning and fossil dismantlement reserve deficiencies is unfair to current ratepayers, based on the magnitude of the amounts and the fact that decommissioning and dismantlement costs are subject to periodic revision. (TR 243, 244, 281) Moreover, he proffers, there is no evidence that FPL is in danger of not earning its authorized rate of return and no evidence that recovery of the costs identified in the Plan are in jeopardy. (TR 244) He therefore concluded that absent such a showing, the Commission should reassess the reasonableness of aggregating these expenses in 1998 and 1999. (TR 244)

Additionally, AmeriSteel argues in its Brief that the Commission has routinely assessed the effect of special amortizations or accelerated recovery on the utility's earnings, usually in the context of determining the appropriate period. (BR 9) Commission Order No. PSC-95-0340-FOF-EI, issued March 13, 1995 in Docket No. 931231-EI and Order No. PSC-95-1230-FOF-EI, issued October 3, 1995 in Docket No. 950270-EI are cited as support. In this current case, AmeriSteel surmises that no effort has been made

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to address the effect of the Plan on FPL's earnings because the revenue growth offset approach ensures that only earnings near or above the top of FPL's authorized range are affected. (BR 9)

As further support for its position, AmeriSteel cited Commission Order No. PSC-95-1531-FOF-EI, issued December 12, 1995 in Docket No. 941350-EI. (Cicchetti, TR 280) This Order established revised nuclear decommissioning annual accruals for FPL and Florida Power Corporation effective January 1, 1995. The specific passage AmeriSteel cited is found on page 15 of the Order where it states:

Based on the current dollar cost to decommission each nuclear plant, the plant-specific contingency allowances, the plant-specific escalation rates, the cost of extended storage for spent fuel, and a fund earnings rate of 4.9%, we have determined the appropriate jurisdictional annual accrual amounts necessary to recover future decommissioning costs over the remaining life of each nuclear power plant....

AmeriSteel claimed that since no party in this current case has argued that the Commission's determination in Order No. PSC-95-1531-FOF-EI was insufficient, no further action is necessary or justified until new decommissioning studies are submitted to the Commission for review. (BR 18) AmeriSteel argues that recovery over the remaining life of each nuclear unit is the Commission's established policy and adjustments to the annual accruals, when needed, assure FPL of full funding of the reserve by the time decommissioning begins. (BR 18)

Additionally, AmeriSteel argues in its Brief that the Plan contains no provision for removing the effect of the calculated deficiency from the currently approved annual accrual for nuclear decommissioning and fossil dismantlement. (TR 91) In fact, AmeriSteel submitted that FPL's Witness Gower was unable to state whether the revised calculated accrual shown in Composite Exhibit 7, pg. 14, was correct. (BR 15, Gower TR 126) Without a recalculated accrual on a going-forward basis, FPL's Witness Gower agreed that customers would continue to be charged for the deficiency until new studies were filed in 1998 and the Commission determined a new annual accrual amount. (TR 90-91)

AmeriSteel believes that it is arbitrary and fundamentally unfair to charge customers in 1998 and 1999 the reserve deficiencies unless the Commission has determined that the 1995 decommissioning studies were perfect and no inputs to those studies

will change in the future. (BR 16) AmeriSteel admits that it is impossible to back-bill customers served by FPL in prior years; however, it believes it is also unsound ratemaking to charge current customers the full amount of the deficiencies based on a 1995 estimate that will become obsolete when the next studies are filed next year. (BR 16) There is no basis for imposing the full burden of past recovery on customers served in 1996 and 1999. These customers carry all of the risk that the 1995 estimates will change materially in the future, and have no opportunity to be reimbursed if subsequent studies show that the perceived deficiencies were overstated. (BR 16-17)

Concerning FPL's fossil generating units, AmeriSteel pointed out that fossil generating stations around the country are being sold as part of companies' restructuring plans. (Cicchetti, TR 262, 263) These sales are tending to be in excess of the net book value of these plants. (Cicchetti, TR 262) Moreover, according to AmeriSteel, as long as the purchase price exceeds book value, the utility does not incur any cost penalty for any future liabilities it is shifting to the buyer, including ultimate dismantlement costs. (BR 22) AmeriSteel concludes, therefore, that if FPL were to sell any of its fossil units, they would sell for at least net book value in which case the amounts accumulated in the dismantlement reserve would become surplus because FPL would no longer have the liability of dismantlement. (BR 23) In summary AmeriSteel contends that recovery of the dismantlement reserve deficiency in 1998 and 1999 is unfair and results in intergenerational inequity especially in light of possible sales or auctions. (BR 23)

FPL's Witness Gower stated that, due to environmental regulations, he did not believe that a sale of a plant site would actually result in no further liability. (TR 65-66) These regulations, he believed, make any company or person, who ever owned a site, partially responsible for clean-up that may be necessary. However, there would be an economic transfer that would compensate the new owner who assumes the removal obligation. (TR 66-67) Witness Gower asserts that the new owner would adjust the purchase price he or she is willing to pay to compensate for assuming the removal obligation. (TR 68) Witness Gower agreed that the plant would have been transferred and the economics of it would have already been captured in the transaction. The costs would have been incurred and recognized. The buyer would be aware of these costs and liabilities and would have taken these factors into consideration of what he or she was willing to pay. Therefore it's not that FPL would be escaping any costs. They would be

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captured in the economics of the negotiated purchase price of the unit. (TR 68-71)

Staff believes if FPL sells any of its generating stations, the Commission can determine at that time the appropriate accounting treatment for the gain or loss on the sale. This is not an issue that needs to be addressed in this proceeding. Also, staff agrees with FPL that its relative position in the industry insofar as exposure to competition is irrelevant to proper depreciation accounting as long as FPL remains subject to cost-based price regulation. (TR 400)

Witness DeWard argued that if any alleged decommissioning reserve deficiency is allowed to be charged against what appears to be overearnings, ratepayers may never benefit in that the rates will remain at the current levels. (TR 173) Where reserve deficiencies are identified, the appropriate response is to adjust the annual accrual for decommissioning to ensure that the deficiency is remedied over time. (TR 173) No additional corrections are required unless the next decommissioning studies demonstrate that the accrual levels established in 1995 are insufficient. (TR 174-175) Given the unknowns, potential technology changes, and the potential for changes in decommissioning requirements, there is no guarantee that the perceived deficiency could not turn into an excess in the future. (TR 175) Upon cross examination by FPL, however, Witness DeWard acknowledged that, if there is a currently existing reserve deficiency, had the accrual been larger in prior years, the amount of the deficiency would necessarily be lower. (DeWard, TR 181)

In its Brief, AmeriSteel claimed that staff used a retrospective method for calculating the perceived reserve deficiencies for fossil dismantlement and nuclear decommissioning. It quotes a passage that is not part of Exhibit 19, that the retrospective theoretical reserve is generally used when remaining life cannot be estimated. (BR 15) AmeriSteel's conclusion is that the retrospective theoretical reserve method does not apply to nuclear decommissioning reserve studies where each units' 40 year operating license defines its useful life. (BR 15)

In response to AmeriSteel's claim, staff notes that the passage cited by AmeriSteel as authority for its claim is not part of the record. Further, staff did not calculate the reserve deficiencies submitted in this proceeding. FPL submitted the calculations shown in Exhibit 7 in response to staff discovery. Staff has, however, reviewed these calculations and found them to comport with the traditional method of calculating a theoretical



reserve. Basically, FPL assumed that the base cost estimates and other assumptions underlying its currently approved accrual had always been known and determined what the decommissioning and dismantlement reserves theoretically should be as of December 31, 1996. (TR 85, Composite EXH 7) This is not a retrospective reserve calculation. It is the traditional prospective calculation. As with any depreciable investment, this calculation is a reasonable approach in determining the reserve that theoretically should have accrued given what is known today. The difference between the theoretically correct reserve and the book reserve constitutes a reserve imbalance that can either be a surplus or a deficit. Again, this information is not part of the record and staff simply feels obligated to offer this explanation as a response.

#### Staff's Analysis

This issue is one of timing: whether reserve deficiencies associated with nuclear decommissioning and fossil dismantlement should be recovered over the remaining life of the respective units as is currently being done, or whether these deficiencies should be written-off over a shorter period of time. The issue is to determine whether there is sufficient evidence showing the existence of reserve deficiencies and the appropriate recovery pattern. A recalculation of the annual accruals recognizing the correction of these deficiencies, will be made as part of the 1998 decommissioning and dismantlement studies. If the accrual is not recalculated to account for the reserve correction, customers will not have the benefit of the correction. There will be less in the future to recover translating into a lesser annual accrual.

During the AmeriSteel's cross examination, FPL's Witness Gower was asked if each of the cases he cited in Exhibit 1, as support for the Plan, considered an appropriate amortization period for a known and verified cost. (TR 92) Asked specifically if any of the amounts were subject to being re-estimated in the future, he responded that some of the estimates were definitely of the same type as the nuclear decommissioning reserve deficiency. (TR 93)

During cross examination by staff, Witness Cicchetti did agree that, based on a finding of a material imbalance, it would be in accordance with normal regulatory practice for the Commission to accelerate the recovery. (TR 363)

Witness Cicchetti agreed that the fact that very precise answers cannot be obtained should be no deterrent from making determinations of depreciation. (TR 365) He further agreed that



reasonably accurate results in both cases are all that should be expected and these can usually be achieved. (TR 365) However, he doesn't necessarily agree with the following passage from Exhibit 19, page 10 and 11:

...If the annual accrual for depreciation is understated, there is a corresponding overstatement or inflation of net income and earned surplus. If past deficiencies and depreciation accruals were substantial, it may be necessary to make up the back accruals by an appropriate adjustment of existing or future earned surplus and, in extreme cases, of the capital account itself...

Witness Cicchetti believes that adjustments of existing or future overearnings to make up material past deficiencies and depreciation accruals may or may not be appropriate accounting from a regulatory perspective. (TR 366) He stated that the important thing is that the company recover its total cost and that there is nothing to indicate that any of the items or the amounts listed in the Plan are in jeopardy of not being recovered. (TR 366-367) He pointed out that the fact that there is a depreciation reserve deficiency is not the fault of the ratepayers, the Commission, or the company. To take a reserve deficiency accumulated over 15 or 20 years and recover it from the ratepayers in 1998 and 1999 is not fair. (TR 367) He believes that ratepayers, in the years 1998 and 1999, will be paying much more than their fair share of the cost. (TR 367) Witness Cicchetti contends that the period of recovery of the depreciation reserve balance is not as important as ensuring that the imbalance is recovered in total by the end of its useful life. (TR 367-368)

However, on page 10 of Exhibit 19, paragraph 14, it states the following:

If depreciation policies or practices were to be determined solely with concern for the level of revenue requirements, the actual measure of depreciation might be misstated. Such distortion of the measure of depreciation would in turn lead to a misstatement of the results of operations for the period and would also misstate the relative position of the enterprise as shown by its balance sheet... a failure to properly measure by understating these costs would, in the long run, probably

be offset by higher costs of capital without any real avoidance of the ultimate need to provide full recovery for the capital.

In questions posed by Commissioner Clark, Witness Cicchetti stated that the magnitude of the deficiencies accentuate the intergenerational inequity. (TR 370) Even though nuclear decommissioning reserve deficiencies are currently being recovered over the remaining life of the nuclear units, Witness Cicchetti admitted that there have been instances where the Commission has allowed deficiencies to be written off over shorter periods. (TR 370) There are times, he agreed, that it would be appropriate to write off deficiencies over a shorter period of time, but the magnitude of the deficiencies in this case makes a shorter write-off not fair. (TR 369-370) Witness Cicchetti further agreed that reserve deficiencies are attributable to the past. (TR 371) He also agreed that the goal of intergenerational equity is that each generation of customers pays for the costs related to the service from which they are benefitting. (TR 372) However, he believes that the recovery of the nuclear decommissioning and fossil dismantlement deficiencies are in conflict with the definition of intergenerational equity. (TR 372)

Witness Cicchetti agreed that theoretically the costs for decommissioning and fossil dismantlement should be recovered equitably over the life of each unit and each generation of customers should pay for the costs related to the nuclear or fossil generating plant from which they are benefitting. (TR 373) Further, he agreed that to the extent customers of the past didn't pay their fair share of the costs, customers of the future will have to make up that shortfall by paying a higher accrual than they would otherwise have to do. (TR 373) However, Witness Cicchetti states that the Commission cannot go back and charge those ratepayers for those costs. (TR 374) He believes it is fair to continue spreading material costs over the remaining life. (TR 374) Notwithstanding this, he admits that if there's an identified shortfall, there will be a greater amount to recover in the future than there would be if there was no shortfall. (TR 374) He also admits that correcting the deficiency over a shorter period of time will reduce the spread of the shortfall into the future. (TR 375)

The argument proffered by Witnesses Cicchetti and DeWard is that correction of the deficiencies as quickly as economically practical exacerbates an intergenerational unfairness to the ratepayers of 1998 and 1999. However, the record evidence demonstrates that intergenerational unfairness already exists by the existence of these reserve deficiencies.

In summary, with respect to this issue, there are certain thresholds required to be met by record evidence for this issue. The first threshold required to be met is whether there is sufficient evidence showing the existence of reserve deficiencies. The record evidence demonstrates that based on the base cost estimates and assumptions that underlie FPL's currently prescribed nuclear decommissioning and fossil dismantlement annual accruals, FPL has identified and quantified an existing reserve deficiency for nuclear decommissioning and for fossil dismantlement as of December 31, 1996. See Exhibit 7: Response to Staff Interrogatory 3. The record evidence demonstrates, pursuant to Exhibit 19, page 9, as well as admitted to by AmeriSteel's Witness Cicchetti (TR 365), that the fact that very precise answers cannot be obtained should be no deterrent in identifying these reserve imbalances. At the hearing, Commissioner Clark added that it could be stipulated that the future cannot be predicted. (TR 81) Therefore, it is reasonable for the Commission to rely upon estimates in the determination of the calculation of reserve imbalances.

The second threshold required to be met is whether the correction of reserve deficiencies over a shorter period of time than the remaining life is in accordance with normal regulatory accounting practice. The record evidence demonstrates that, pursuant to Exhibit 19, page 4, as well as admitted to by AmeriSteel's Witness Cicchetti (TR 361 and 363), the correction of reserve deficiencies over a shorter period of time than the remaining life is in accordance with normal regulatory accounting practice.

Moreover, the record evidence demonstrates that, pursuant to Composite Exhibit 1 as well as admitted to by AmeriSteel's Witness Cicchetti (TR 369-370), the correction of reserve deficiencies over a shorter period of time than the remaining life is in accordance with past Commission practice.

The remaining issue is whether the record demonstrates that correcting a reserve deficiency over a shorter period of time is more reasonable or fair than correcting the reserve deficiency over the remaining life. The record evidence demonstrates by both FPL's Witness Gower (TR 30, 396, 407, and 409) and AmeriSteel's Witness Cicchetti (TR 373) that the tenet of intergenerational equity dictates that in this docket correcting reserve deficiencies over a shorter period of time is more reasonable or fair than correcting the reserve deficiency over the remaining life.

In conclusion, in accordance with the foregoing, there is ample record evidence for the Commission to find that it is not

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necessary to defer a decision to allow any additional decommissioning or dismantlement expense to correct historic reserve deficiencies. Therefore, Staff recommends that this portion of the Plan be adopted.

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ISSUE 3: Should the Commission consider whether FPL has reserve depreciation surplus balances for any of its plant accounts to offset depreciation reserve deficiencies?

RECOMMENDATION: To the extent reserve transfers between functions can cause pricing implications, the Commission should not consider them. However, the Commission should continue its practice of considering reserve transfers between plant accounts within the same production unit and between units within the same production site. (Lee, Ging)

#### POSITION OF PARTIES

FLORIDA POWER & LIGHT CORPORATION: No. Reserve surpluses and deficiencies within an account reflect the results of what customers have paid for a particular type of service. Transfers have the potential of creating cross-subsidies between customer classes receiving different types of service.

AMERISTEEL CORPORATION: Yes. As it has in other instances, before authorizing additional charges against excess earnings, the Commission should consider offsetting over-collections in prior periods resulting in reserve surpluses as well as cost reductions in other areas that have not been reflected in base rates.

STAFF ANALYSIS: This issue was originally raised by AmeriSteel and was addressed in the testimony of FPL's Witness Gower and AmeriSteel's Witness Cicchetti. The record evidence, while limited, is sufficient to address this issue.

FPL's Witness Gower testified that reserve transfers across functional categories have pricing implications which may be unacceptable because different classes of service provided to customers involve usage of the several functional categories of plant. (TR 25) If, for example, a reserve transfer were made from the transmission plant reserve to some other function (distribution, production, or general), it could automatically cause an increase in the price to a commercial interruptible customer. (TR 128) In addition, Mr. Gower asserts, the Federal Energy Regulatory Commission prohibits such transfers. (TR 25)

AmeriSteel's Witness Cicchetti testified that the Commission should consider offsetting reserve surpluses and deficiencies in related plant accounts, where applicable. (TR 272) However, Witness Cicchetti admitted that such transfers of reserve could, in fact, have pricing implications. (TR 377)



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In its Brief, AmeriSteel offered two orders in support of its position. The first order referred to is from the Federal Energy Regulatory Commission (FERC) overturning a South Carolina Public Service Commission decision in which a transfer of surplus reserve from the transmission function to the generation function to mitigate generation-related stranded costs was approved. (BR 23) Staff notes that FPL's Witness Gower mentioned both the FERC and the South Carolina decisions. However, AmeriSteel failed to respond in either rebuttal testimony or during the hearing. Staff believes therefore, it is inappropriate for AmeriSteel to attempt rebuttal through its Brief.

AmeriSteel also refers to Order No. PSC-94-1199-FOF-EI, issued September 30, 1994, in Docket No. 931231-EI, as illustration of and support for Commission authorized surplus reserve transfers. (BR 23) Specifically this Order states:

...Due to the effect reserve transfers may have on jurisdictional separations, purchase power agreements, or other lease arrangements, our approach to reserve reallocations is that they should, ideally, be made between accounts of a given unit or function...

Staff believes this Order clearly shows that the Commission's approach to reserve transfers is to make them between accounts within the same function and not between accounts across functions. This approach is in agreement with FPL's Witness Gower's testimony.

Additionally, FPL's calculation of the decommissioning and dismantlement reserve deficiencies do consider the various reserve imbalances for each nuclear unit and each fossil generating unit. (Composite EXH 7, pg. 12 and 59-69) Staff believes this is in accord with the Commission's approach to reserve transfers as stated above.

Staff, therefore, recommends that the Commission not consider reserve transfers between functions because they can result in pricing issues. Further, the Commission should continue to consider reserve transfers between plant accounts within the same production unit and between units within the same production site.

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ISSUE 4: Should FPL be authorized to accelerate the write-off of Unamortized Loss on Reacquired Debt?

RECOMMENDATION: Yes. Based on the evidence in the record, the write-off of unamortized loss on reacquired debt should be allowed. (Jones, Maurey)

POSITION OF PARTIES

FLORIDA POWER & LIGHT COMPANY: Yes. Moreover, FPL's projected interest savings from reacquisitions for the Plan years will exceed its unamortized loss balance at January 1, 1998. It simply makes sense to offset the cost incurred to achieve these savings with the actual benefits as soon as possible.

AMERISTEEL CORPORATION: No. Accelerated recovery of unamortized premiums and other costs to FPL of reacquiring and refinancing debt is not related to depreciation reserve deficiencies. The accepted and appropriate ratemaking treatment of these costs is to amortize them over the original life of the retired debt or the life of new debt issued if it is a refinancing. There also is no rational basis and no record evidence for accelerated recovery of such regulatory assets based on competitiveness concerns.

STAFF ANALYSIS: The loss on a reacquired debt balance represents the amounts associated with reacquisitions of debt. When a debt issue is reacquired, the call premium, the unamortized expense of the original issue, and any unamortized discount or premium is written off to loss on reacquired debt. The associated loss on reacquired debt is then amortized over the remaining life of the original issue and the detail of unamortized expense, discount or premium is no longer maintained. (EXH 7, Staff's Informal Data Request, Question No. 1)

According to FPL Witness Gower, "[d]eferral of the recovery of the capital investors have provided to fund refinancing of high cost debt over the remaining life of the securities refinanced adversely affects the regulated cost of capital in the same manner that insufficient capital recoveries through depreciation inflates rate base. Although deferral and amortization does allow recovery of the capital investors provided to achieve the interest cost savings from refinancing, the long amortization period affects FPL's cost of capital for years beyond the time when the interest savings has "recovered" the cost of the refinancings." (TR 30-31)

Witness Gower testified that the "interest cost savings realized from refinancings undertaken by FPL from 1984 through 1996

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aggregated \$907,722,000 for the period, while the cost of the refinancings totaled \$397,029,000 (including the \$282,756,000 unamortized balance at December 31, 1996). Although the savings have "recovered" the costs and yielded additional savings in excess of \$500,000,000 ( $\$907,722,000 - \$397,029,000 = \$510,693,000$ ), for ratemaking purposes \$282,756,000 at December 31, 1996 burdens the future cost of service. Earlier recovery of the capital investors supplied to achieve the savings would obviate this need. This will benefit customers who will be served by PPL for the longer term, but their benefit would be realized much sooner." (TR 31)

Initially, the forecasted balance of unamortized loss on reacquired debt at December 31, 1997 was \$98,523,000. (EXH 7, Interrogatory No. 39) At the hearing, however, Witness Gower indicated that the balance of unamortized loss on reacquired debt would be the \$98 million, as stated in the interrogatory response, plus the \$79 million discretionary additional expense recognition, which now "does not appear likely to be recorded" in 1997. (TR 414) As a result, the unamortized balance as of January 1, 1998, will be approximately \$177 million. (TR 414) The interest savings is forecasted to be approximately \$142 million for 1998. (EXH 7, Interrogatory No. 39) Therefore, the balance of unamortized loss on reacquired debt could be recovered over the two years of the Plan without the amortization in either year exceeding the interest savings for that year.

AmeriSteel Witness Cicchetti recommended that the amount of unamortized loss on reacquired debt should be amortized over the remaining life of the original debt or spread over the life of the new issue. He testifies that this will result in future ratepayers paying their fair share of the costs associated with the prudently reacquired debt. He contends that "[u]nder the concept of intergenerational equity, it is inappropriate to force current ratepayers to bear the costs of reacquiring the debt so that future ratepayers can enjoy a cost of debt below the "net" cost of debt. Ratepayers bear the cost to the extent that the expenses taken under the Plan reduce overearnings." (TR 268-269)

Witness Cicchetti further stated that "PPL has reacquired significant amounts of debt resulting in an excessive amount of equity in its capital structure. By reacquiring substantial amounts of debt, PPL has replaced a tax deductible source of financing with a higher cost, non-tax deductible source of financing that: 1.) Increased FPL's after-tax overall cost of capital relative to what it would have been otherwise; 2.) Increased the dollar return to investors, and; 3.) Reduced the amount of potential overearnings." (TR 290-291)

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Finally, Witness Cicchetti testified that, with respect to the balance of unamortized debt costs associated with reacquisition, there is no valid justification for ratepayers to have to pay such a high amount. (TR 312) He concluded that writing off costs associated with the reacquired debt is inappropriate because the ratepayers, over the two year period, will pay the costs associated with reacquiring the debt while the benefits are given to ratepayers in the future. (TR 327)

AmeriSteel Witness DeWard also testified that losses on reacquired debt "are generally amortized over the remaining life of the debt that has been paid off or over the life of the debt issued to pay off the old debt." He indicates that "[t]his makes sense because the benefits of reducing debt costs are realized by ratepayers over time as well. Of course, this must be tempered to ensure that the capital structure is appropriate for ratemaking purposes and that the debt/equity ratio is appropriate." (TR 177)

Concerns were raised by Witness Cicchetti regarding the appropriateness of the capital structure and intergenerational equity. The issue of the appropriateness of FPL's capital structure was determined to be outside the scope of this proceeding. As for the issue of intergenerational equity, Witness Gower testified that "[b]y and large, the costs being recovered in this case were incurred to produce service in prior years and "intergenerational equity" suggests those costs be recovered quickly so that the cost of service in the future is not burdened with prior service costs...or before some who received the prior service depart and avoid their fair share of the costs." (TR 30) The issue that is before the Commission is whether the details and results of the Plan for recording certain expenses in 1998 and 1999 are in the public interest. With respect to the record developed in this proceeding regarding the issue of accelerating the write-off of the remaining balance of unamortized loss on reacquired debt, there are three reasons that have persuaded Staff to recommend that this treatment be allowed.

First, the Uniform System of Accounts (USoA) allows the Commission latitude in how it permits these costs to be written off. (TR 48-49) Although AmeriSteel does not agree with this proposed methodology for writing off these costs, in its brief, it does admit that the Commission has the authority to do so. (BR 20) In addition, the Accounting Principles Board (APB), in adopting APB 26, concluded that call premiums and other costs associated with the refunding and extinguishment of old debt could not be a source of benefit to new debt issues. (EXH 7, Interrogatory No. 16) In other words, the Board viewed refunding and early extinguishment as

completed transactions and as such, gains or losses have to be recognized. (EXH 7, Interrogatory No. 16) Thus, both USoA and APB allow, and in the case of the APB requires, the write-off of refunding and early extinguishment costs in the period they are incurred.

Second, there are precedents in several cases where the Commission has deviated from the USoA for the recovery of loss on reacquired debt and debt issuance costs. The USoA (Part 32) for the telephone industry specifies that loss on reacquired debt be recognized in the same period in which the debt was refinanced rather than amortized, which is stated in Order No. 22793, issued April 10, 1990. (EXH 20) However, in Order No. PSC-94-0172-FOF-TL, issued February 11, 1994, the Commission approved a stipulation and agreement between the parties in that case resulting in the Commission approval of the proposed treatment that Southern Bell could amortize the costs of refinancing as rapidly as possible as long as the amortization in any year did not exceed the interest savings for that year. (EXH 20) As discussed earlier in this recommendation, Witness Gower testified that the unamortized balance as of January 1, 1998, will be approximately \$177 million. (TR 414) The interest savings is forecasted to be approximately \$142 million for 1998. (EXH 7, Interrogatory No. 39) Therefore, the balance of unamortized loss on reacquired debt can be recovered over the two years of the Plan without the amortization in either year exceeding the interest savings for that year.

In contrast to the USoA for the telephone industry, the USoA regarding the electric and gas industry specifies that loss on reacquired debt be amortized over the remaining life of the original debt or over the life of the new issuance, which Witness Cicchetti discussed in his testimony. (TR 268) However, in Order No. PSC-95-0964-FOF-GU, issued on August 8, 1995, in the case of West Florida Natural Gas, the Commission approved an accelerated recovery of unamortized issuance cost. In this order, the Commission found the utility's proposal to apply excess earnings from fiscal years 1994 and 1995 toward the reduction of the Company's balance of unamortized issuance costs to be reasonable and in the interests of both the Company and the ratepayers. (EXH 20)

Finally, the accelerated write-off of unamortized loss on reacquired debt will significantly reduce FPL's embedded cost of debt. All other things constant, the reduction in the cost of debt will result in a lower overall cost of capital. The lower cost of capital will be used for measuring earnings in any future



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proceeding. (TR 142-143) This result could lead to a rate decrease or a rate increase being deferred to the future.

In conclusion, based on the record in this proceeding, Staff recommends that the accelerated write-off of unamortized loss on reacquired debt is reasonable and in the interests of both the Company and the ratepayers.

ISSUE 5: Should FPL be authorized to record, in an unspecified depreciation reserve, an expense amount greater than the amounts to correct any depreciation reserve deficiency, write off the Unamortized Loss on Reacquired Debt, correct any fossil dismantlement reserve deficiency, and correct any nuclear decommissioning reserve deficiency?

RECOMMENDATION: Yes. To the extent any revenues remain to be disposed of, they should be recorded as an expense to a non-account specific reserve account in Production Plant to either be allocated to specific accounts during a comprehensive depreciation rate review or otherwise disposed of by the Commission. If FPL justifies the need for additional depreciation expense to correct other reserve deficiencies, these monies should be used to that end. However, if the need for the additional depreciation expense is not proven to the Commission's satisfaction or there are no reserve deficiencies to correct, staff recommends that the Commission otherwise dispose of the monies recorded in the non-account specific reserve. (Lee, Slemkewicz)

#### POSITION OF PARTIES

FLORIDA POWER & LIGHT COMPANY: Yes. Under this provision, the Commission maintains jurisdiction over any additional expenses recorded by FPL that are not transferred to a specifically identified account. The Commission's PAA Order in this docket requires that any such additional expenses are to be allocated to specific accounts at a later date by the Commission.

AMERISTEEL CORPORATION: No. There is very little identified depreciation reserve deficiencies remaining, and there is no basis for adding additional expense to an unspecified depreciation reserve simply to offset excess earnings. To the extent that the Commission authorizes additional expense for known and verified costs, any additional amounts above that level should be refunded to ratepayers rather than charged as an additional unspecified expense.

STAFF ANALYSIS: The purpose of the proposal to record any amounts in an unspecified depreciation reserve is to allow the Commission to retain jurisdiction over any additional expenses recorded over and above the amounts necessary to fully recover the reserve deficiency deferred items that have been specifically identified in the Plan. In his testimony, Witness Gower agreed that the Commission had the authority to consider various options for disposing of any amounts recorded in this reserve, including a refund. (TR 147-148) Based on the discussion of prior issues in

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this recommendation, it appears unlikely that FPL will record additional expenses in 1998 or 1999 that will exceed the specifically identified items. Instead, Witness Gower stated that the additional expenses to be recorded will be less than the total amount that is available to be written off. (TR 116-117)

Witness Cicchetti contended that because no depreciation reserve deficiency has been identified, there is no reason to create such a reserve. Instead, some type of rate relief should be provided. (TR 273)

FPL's Witness Gower cited several Commission orders directing that additional depreciation expense be recorded to dispose of over-collections of revenue for various reasons. (TR 27) Order No. 16257, issued June 19, 1986, directed companies to credit the revenue effect associated with interest synchronization for Job Development Investment Credit to an unspecified depreciation reserve account. This action was taken without any specific quantified or identified reserve deficiency. In each case, the Commission stated that these amounts would be made account specific at the next depreciation prescription.

Further, as part of Order No. 20162, issued October 13, 1988 in Docket Nos. 880069-TL and 870832-TL, the Commission set aside certain revenues for depreciation. (Composite EXH 20) The Order states:

In its testimony, Southern Bell proposed to set aside certain revenues to fund depreciation. The company requested \$50,000,000 for 1989 and \$156,000,000 for 1990. The effect of our previous decisions is that \$17,114,281 remains for 1989 and \$147,743,082 for 1990. We will hold these funds subject to disposition by the Commission when Southern Bell files its next depreciation study. If the company justifies additional depreciation, these amounts can be applied to that end. If the amounts are not proven to our satisfaction, we can otherwise dispose of those amounts.

AmeriSteel's Witness Cicchetti testified that no depreciation reserve deficiency has been identified and therefore there is no reason to create an unspecified depreciation reserve for the excess revenues rather than providing rate relief. (TR 273) If expenses are recorded to the reserve and the Commission later decides that

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there are no deficiencies and the money should be refunded to the customers, Witness Cicchetti questioned whether this would constitute retroactive rate-making. (TR 378) In any event, Witness Cicchetti agreed that the Commission would maintain jurisdiction over the monies if they are booked to an unspecified reserve. (TR 378) Additionally, in its Brief, AmeriSteel expressed concern that recording excess revenues to an unspecified reserve would simply ensure that a cash refund or a reduction in rates to offset any excess revenues would not be made under any circumstance. (BR 24)

FPL, in response to staff discovery, agreed that in the event no additional reserve deficiencies exist, adjustments to the reserve should not be made simply to "accelerate" recovery. (Composite EXH 7, pg. 20) If this is the case, another option available for the Commission to consider for the disposition of any excess revenues recorded to the reserve would be a cash refund to the customers. (Composite EXH 7, pg. 19) The point is that the Commission retains jurisdiction over these excess revenues until final disposition is decided. FPL opined that while a refund would provide customers a short-term benefit, additional capital recovery treatment provides lower long-run revenue requirements by reducing investor supplied capital on which a return must be paid. (Composite EXH 7, pg. 19)

Composite Exhibit 7, pages 100-156, identified reserve deficiencies associated with FPL's combined-cycle units and six of its steam production sites. When FPL files its comprehensive depreciation study later this month, a review of FPL's current depreciation rates and its reserve position can be made. Based on that review, monies directed to be recorded to the Production Plant reserve as a result of the Plan approved in Docket 950357-EI will be made account specific. In the event additional deficiencies exist, they should be candidates for correction. FPL's Witness Gower testified that he believed that the Plan contemplates the Commission considering future depreciation studies that are filed on behalf of FPL. (TR 148-149)

Staff agrees with AmeriSteel that the Plan should be more specific regarding the disposal of any excess revenues booked. If FPL justifies the need for additional depreciation expense to correct additional reserve deficiencies, and there are additional revenues, these monies should be used to that end. However, if the need for the additional depreciation expense is not proven to the Commission's satisfaction or there are no reserve deficiencies to correct, the Commission should otherwise dispose of the monies recorded in the non-account specific reserve.

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Based on the record, it is Staff's opinion that no expenses are likely to be recorded in the unspecified depreciation reserve. But Staff is also of the opinion that a "safety net" should be established to allow the Commission to retain jurisdiction if FPL is in a position to record any additional expenses in excess of the specifically identified items. Because the Commission has the discretion to consider various options to dispose of any amounts recorded in this reserve, it could order a refund or other type of rate relief. Therefore, Staff recommends that it is appropriate to allow FPL to record expense amounts in an unspecified depreciation reserve after all of the other items have been recovered.



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ISSUE 6: Should the Plan be extended for 1998 and 1999 as set forth in Order No. PSC-97-0499-FOF-EI? (Attachment B)

RECOMMENDATION: No. The Plan, as modified in Attachment D, should be extended for 1998 and 1999. (Attachment D) (Causseaux, Slemkewicz)

POSITION OF PARTIES

FLORIDA POWER & LIGHT COMPANY: Yes. See FPL's Statement of Basic Position and its positions as set forth in Issues 1 through 5 above. (See Attachment E)

AMERISTEEL CORPORATION: No. See AmeriSteel's Basic Statement of Position and as set forth in Issues 1-5 above. The magnitude of the added expense authorized by the Plan, up to \$842 million over two years is not justified. The Plan would create enormous intergenerational inequity and impose an excessive and unwarranted cost burden on FPL ratepayers in 1998 and 1999. That amount also indicates the severity of FPL's excess earnings situation in those years that the Commission should act to correct through appropriate rate reductions. (See Attachment F)

STAFF ANALYSIS: The merits of each individual element of the Plan have been discussed in the previous issues. In each instance, the Staff is recommending that each element is appropriate for inclusion in the Plan. However, there still remains the question of whether or not to implement the extension of the Plan.

The overall purpose of the Plan is to mitigate past reserve deficiencies, deferred regulatory assets, and previously flowed through taxes. (TR 20) All of these items relate to prior periods but are affecting current periods because they are being amortized or charged over future periods. The elimination or reduction of these items will result in lower future revenue requirements because rate base and expenses will be reduced. (TR 21)

Witness Gower stated that one purpose of the proposed agency action that was cited in Order No. PSC-97-0499-FOF-EI was to help facilitate the establishment of a "level accounting playing field". (TR 20) However, Witness Gower did not advocate an immediate change in the Commission's policies in this docket to achieve such an end. (TR 42-43) The Staff agrees with AmeriSteel's assertion in its brief that this is not a reason for the adoption of the plan. There is no basis in the record for attempting to revise the accounting rules for FPL to treat it as though it was an unregulated company.

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As previously stated, the purpose of the Plan is to accelerate the recovery of past underrecoveries.

Staff is proposing two modifications to the Plan as set forth in Order No. PSC-0499-POF-EI. The first modification is to eliminate Item 2 concerning the book-tax timing differences. As shown on Exhibit 13, page 2 of 2, the entire amount of the book-tax timing differences will be written-off during 1997. Therefore, it is not necessary to include this item in the Plan extension. The second modification concerns Item 6 related to the recording of additional expense amounts in an unspecified depreciation reserve. Staff has modified this provision pursuant to Witness Gower's statements as discussed in Issue 5. Witness Gower agreed that the Commission had the authority to consider a variety of options for the disposition of any amounts included in the unspecified depreciation reserve. The original Plan has been modified in Attachment C in type and strike format. The recommended Plan is shown in Attachment D.

It is Staff's opinion that it is good regulatory policy to eliminate these types of prior period items when the funds are available to do so without raising current rates. Once these items have been addressed, the Commission can then evaluate FPL's earnings on a going forward basis and decide on an appropriate course of action.

Debit Deferred Tax Balances - Nuclear Decommissioning - No witness specifically addressed the treatment of the debit deferred income tax balances related to the decommissioning of FPL's nuclear units in either their direct or rebuttal testimony. However, Mr. Gower, FPL's witness, did state that his testimony was intended to show that the Plan is reasonable and appropriate, benefits FPL's customers for the longer term, and represents good regulatory policy. (TR 19 and 37) On cross-examination, Witness Gower stated that the Plan requires that the debit balance deferred income taxes related to decommissioning the nuclear units be treated below the line for ratemaking purposes and that such treatment is an entirely reasonable adjustment to make. (TR 144-145) These tax balances relate to funded reserves for the decommissioning of nuclear units. (TR 144-145) The treatment is appropriate in order to make the books balance. (TR 146-147) Witness Gower stated that FPL agreed to the treatment. (TR 145)

The funded reserves may be either qualified or unqualified. (TR 145) Witness Gower explained that, to arrive at base rates, the reserve for decommissioning and the funds for decommissioning are removed from rate base and expense. (TR 144) Staff agrees

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that below the line treatment of the debit balance deferred income taxes related to decommissioning the nuclear units is consistent with the treatment given the other elements of decommissioning. Thus, Staff recommends that this portion of the Plan be approved.

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ISSUE 7: Should this docket be closed?

RECOMMENDATION: Yes. If no party files a Motion for Reconsideration or Notice of Appeal of the Commission's Final Order, no further action will be required in this docket, and it should be closed. (Cruz-Bustillo, Elias, Keating)

POSITION OF PARTIES

FLORIDA POWER & LIGHT COMPANY: Yes.

AMERISTEEL CORPORATION: No. The Commission should keep this docket open and reserve its final determination in this docket until a review of FPL's excess earnings has been performed and the utility's next comprehensive nuclear decommissioning and fossil dismantlement studies have been examined.

STAFF ANALYSIS: Assuming Staff's recommendations on Issues 1-6 are approved and no party files a Motion for Reconsideration or Notice of Appeal of the Commission's Final Order, no further action will be required in this docket. Therefore, this docket should be closed.

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ATTACHMENT A  
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**Underrecoveries Addressed in Docket No. 970410-EI (The Plan) and Docket No. 950359-EI**

<u>A</u> <u>Description of Underrecoveries</u>	<u>B</u> <u>Docket No.</u> <u>950359-EI</u> <u>(000's)</u>	<u>C</u> <u>Docket No.</u> <u>970410-EI</u> <u>(000's)</u>	<u>D</u> <u>Total</u> <u>Both Dockets</u> <u>(000's)</u>
1 Depreciation Reserve Deficiencies	\$235,642	\$72,500	\$308,142
2 Book-Tax Timing Differences	\$79,254	\$0	\$79,254
3 Unamortized Loss on Reacquired Debt	\$103,300	\$177,000	\$280,300
4 Fossil Dismantlement Reserve Deficiencies	\$0	\$34,437	\$34,437
5 Nuclear Decommissioning Reserve Deficiencies	\$0	\$484,440	\$484,440
6 Total	\$418,196	\$768,377	\$1,186,573

Sources:

- 1 Column B: EXH 1 (HAG 2), line 1;  
Column C: Staff Recommendation, Issue 2 and EXH 1 (HAG), Note 1
- 2 EXH 1 (HAG 2), line 2
- 3 Column B: EXH 13, page 2, line 7 and EXH 7, page 1, line 4;  
Column C: TR 413-414
- 4 EXH 1, line 4
- 5 EXH 1, line 5



FPL 1998 and 1999 Plan

FPL shall record an additional retail expense in 1998 and 1999 equal to 100% of the base rate revenues produced by retail sales between its "low band" (\$3.1409 billion) and "most likely sales forecast" (\$3.2241 billion) and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. Any additional retail expense recorded as a result of this provision will be applied to the retail portion of the following listed in priority order:

1. Correction of any depreciation reserve deficiency resulting from an approved depreciation study order;
2. Writing off the net amounts of book-tax timing differences that were flowed through in prior years and remain to be turned around in future periods;
3. Writing off the Unamortized Loss on Reacquired Debt;
4. Correction of the reserve deficiency, if any, existing in FPL's fossil dismantlement reserves;
5. Correction of the reserve deficiency, if any, existing in FPL's nuclear decommissioning reserves. Any additional expenses recorded under this plan for nuclear decommissioning shall be funded on an after tax basis. Effective January 1, 1998, all debit deferred taxes resulting from amounts contained in decommissioning funds shall be excluded for surveillance purposes;
6. In the event revenues from the forecast bands are greater than the expenses identified herein, the remaining expenses shall be recorded in an unspecified depreciation reserve to be allocated at a later date.

A comprehensive fossil dismantlement study and a comprehensive nuclear decommissioning study shall be filed by October 1, 1998.

Upon the Commission's own motion or a petition filed with the Commission, the recording of the additional expense under this plan may be altered or terminated by the Commission in the event that legislative, administrative or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida.

FPL 1998 and 1999 Plan

FPL shall record an additional retail expense in 1998 and 1999 equal to 100% of the base rate revenues produced by retail sales between its "low band" (\$3.1409 billion) and "most likely sales forecast" (\$3.2241 billion) and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. Any additional retail expense recorded as a result of this provision will be applied to the retail portion of the following listed in priority order:

1. Correction of any depreciation reserve deficiency resulting from an approved depreciation study order;
- ~~2. Writing off the net amounts of book tax timing differences that were flowed through in prior years and remain to be turned around in future periods;~~
- ~~2.3~~ Writing off the Unamortized Loss on Reacquired Debt;
- ~~3.4~~ Correction of the reserve deficiency, if any, existing in FPL's fossil dismantlement reserves;
- ~~4.5~~ Correction of the reserve deficiency, if any, existing in FPL's nuclear decommissioning reserves. Any additional expenses recorded under this plan for nuclear decommissioning shall be funded on an after tax basis. Effective January 1, 1998, all debit deferred taxes resulting from amounts contained in decommissioning funds shall be excluded for surveillance purposes;
- ~~5.6~~ In the event revenues from the forecast bands are greater than the expenses identified herein, the remaining expenses shall be recorded in an unspecified depreciation reserve to be subject to the Commission's disposition allocated at a later date.

A comprehensive fossil dismantlement study and a comprehensive nuclear decommissioning study shall be filed by October 1, 1998.

Upon the Commission's own motion or a petition filed with the Commission, the recording of the additional expense under this plan may be altered or terminated by the Commission in the event that legislative, administrative or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida.

FPL 1998 and 1999 Plan

FPL shall record an additional retail expense in 1998 and 1999 equal to 100% of the base rate revenues produced by retail sales between its "low band" (\$3.1409 billion) and "most likely sales forecast" (\$3.2241 billion) and at least 50% of the base rate revenues produced by retail sales above FPL's "most likely sales forecast" forecasted for 1996 as filed in Docket No. 950359-EI. Any additional retail expense recorded as a result of this provision will be applied to the retail portion of the following listed in priority order:

1. Correction of any depreciation reserve deficiency resulting from an approved depreciation study order;
2. Writing off the Unamortized Loss on Reacquired Debt;
3. Correction of the reserve deficiency, if any, existing in FPL's fossil dismantlement reserves;
4. Correction of the reserve deficiency, if any, existing in FPL's nuclear decommissioning reserves. Any additional expenses recorded under this plan for nuclear decommissioning shall be funded on an after tax basis. Effective January 1, 1998, all debit deferred taxes resulting from amounts contained in decommissioning funds shall be excluded for surveillance purposes;
5. In the event revenues from the forecast bands are greater than the expenses identified herein, the remaining expenses shall be recorded in an unspecified depreciation reserve to be subject to the Commission's disposition at a later date.

A comprehensive fossil dismantlement study and a comprehensive nuclear decommissioning study shall be filed by October 1, 1998.

Upon the Commission's own motion or a petition filed with the Commission, the recording of the additional expense under this plan may be altered or terminated by the Commission in the event that legislative, administrative or judicial action authorizing retail wheeling or deregulating the retail electric market is approved for Florida.

FPL's Basic Statement of Position

The Commission should approve the proposal to extend the plan for FPL to record certain expenses for years 1998 and 1999 per its Order No. PSC-97-0499-FOF-EI issued April 29, 1997.

In support of its position FPL submits that:

- (1) It is appropriate and in the best interest of its customers to correct depreciation, fossil dismantlement and nuclear decommissioning reserve deficiencies as proposed. The Commission endorsed this policy in Order No. PSC-97-0499-FOF-EI by stating "We believe that this plan is appropriate because it mitigates past deficiencies with Commission prescribed depreciation, dismantlement, and nuclear decommissioning accruals."
- (2) The amount of reserve deficiencies are significant. The nuclear decommissioning reserve alone is calculated to be \$484 million deficient at December 31, 1996 based on the last study supporting the accrual approved by the Commission. Delaying correction of the deficiencies can only increase the long-run total revenue requirements to FPL's customers and increase the risk of recovery.
- (3) From 1984 - 1996, FPL has reacquired higher interest rate debt which has resulted in cumulative net interest cost savings of more than \$500 million (after considering all related costs on reacquired debt). To achieve these interest cost savings FPL was required to pay a premium and other related costs, which is referred to as a cost on reacquired debt, in order to reacquire the higher interest rate debt issues. Accelerating the write-off of Unamortized Loss on Reacquired Debt is appropriate since it will lower FPL's overall cost of capital and will allow recovery of this cost more in line with the savings already being achieved which will be beneficial to FPL's customers in the long term. The accelerated write-off of Unamortized Loss On Reacquired Debt is the same Commission directive contained in Order No. PSC-96-0461-FOF-EI that became effective January 1, 1995.

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- (4) The proposal will have a positive impact on rate stability because the prior cost underrecoveries will be corrected without affecting rates.



AmeriSteel's Basic Statement of Position

During the period 1995-97 pursuant to the Original Plan approved in Docket No. 950359-EI, all of the depreciation related under-recoveries and most of the regulatory assets identified in the original plan have been written off. There is no basis for extending the Plan for the years 1998 and 1999 as proposed in the PAA because there is no identified need to "catch up" on any of the expense items addressed in the Original Plan.

As Staff readily acknowledged in its August recommendation memorandum to the Commission, absent a continuation of the Plan, FPL's revenue growth above the 1996 base rate revenue forecast will place FPL in a significant excess earnings situation. This circumstance is further complicated, again as Staff has observed, by the unusual fact that FPL has not requested the accounting directives proposed in PAA but has simply acquiesced in the Plan extension for 1998 and 1999 it negotiated with Staff. Thus, there is neither a need for the Plan extension nor an offer by the utility to supply a reason for it.

Because there are no remaining under-recoveries of known and verified costs, the modifications to the Plan proposed for 1998 and 1999 turn to accelerated recovery of regulatory assets and correction of perceived deficiencies in the reserves for nuclear decommissioning and fossil dismantlement. Any decommissioning or dismantlement will not actually occur for fifteen years or more from now in most cases. These accelerated recoveries actions fly in the face of established ratemaking practice long observed by the Florida PSC and other regulatory bodies. There is no policy or factual justification for those accelerated write-downs. The Plan extension cannot be justified on the basis of the reasons cited in the PAA or by reference to the expense items identified in attachment A to the PAA.

- a. The Commission has not begun to address competitiveness issues in the electric industry and there is no record support either to explain what is meant by "...establishing a level accounting playing field between FPL and possible non-regulated competition" or to justify the Plan based upon that vaguely described notion.

- b. The proposal to "correct" perceived deficiencies in the reserve for future decommissioning activities is unreasonable. In its 1995 order approving significant changes in FPL's annual accruals, the Commission provided for full recovery of nuclear decommissioning costs over the remaining lives of the units. There is no reasoned basis for a huge one-time charge to add to the decommissioning reserve.

Reduced to its basics, the Plan serves to postpone needed rate reductions for two years. There is no consumer benefit in this in the short term because, as Staff noted in its August recommendation memo to the Commission, absent approval of the Plan, the Commission would need to take other actions (e.g., temporary rates, a reverse make whole proceeding) to safeguard ratepayer interests against excess earnings. Since FPL's financial parameters disclose no need for a rate increase in the foreseeable future, the "long term benefits" claimed by FPL are far too remote and speculative to justify approval of the Plan.