

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida City Gas. | DOCKET NO. 20220069-GU
FILED: JANUARY 9, 2023

**FEDERAL EXECUTIVE AGENCIES AND
FLORIDA INDUSTRIAL POWER USERS GROUP
JOINT POST-HEARING BRIEF**

Federal Executive Agencies (“FEA”) and the Florida Industrial Power Users Group (“FIPUG”), through counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2022-0224-PCO-GU, issued June 22, 2022, and the First Order Modifying Order Establishing Procedure Granting in Part and Deny in Part the Office of Public Counsel’s Motion to Modify Key Activity Dates, Order No. PSC-2022-0275-PCO-GU, issued July 15, 2022, hereby submit this Joint Post-hearing Brief.

STATEMENT OF BASIC POSITION

On May 31, 2022, Florida City Gas (“FCG” or “Company”) filed a petition seeking the Florida Public Service Commission’s (“Commission”) approval of a rate increase and associated depreciation rates. FCG, a subsidiary of Florida Power & Light Company (“FPL”), is a natural gas local distribution company providing sales and transportation of natural gas, and is a public utility subject to the Commission's regulatory jurisdiction under Section 366.02, Florida Statutes (F.S.). FCG currently serves approximately 116,000 residential, commercial, and industrial natural gas customers in Miami-Dade, Broward, St. Lucie, Indian River, Brevard, Palm Beach, Hendry, and Martin counties.

FCG initially requested an increase of \$29.0 million in additional annual revenues, but updated that figure in rebuttal to \$28.3 million. Of that amount, \$5.7 million is associated with

the reclassification of FCG's Safety, Access, and Facility Enhancement ("SAFE") program revenues from a surcharge to base rates, and \$3.8 million is related to the revenue requirement for the previously approved Liquefied Natural Gas ("LNG") Facility. Additionally, FCG initially stated that the remaining \$19.4 million is necessary for the Company to earn a fair return on its investment and to adopt the requested Reserve Surplus Amortization Mechanism ("RSAM"). In rebuttal, FCG updated this figure to \$18.8 million. FCG based its request on a 13-month average rate base of \$489 million for the projected test year ending December 31, 2023. The requested overall rate of return is 7.09 percent based on a mid-point of 10.75 percent return on equity ("ROE").

On July 6, 2022, FEA intervened in this case because the Company's service and rates are critically important to the missions of U.S. Army Garrison-Miami, Cape Canaveral Space Force Station, and Patrick Space Force Base, among other federal customers.¹ On August 25, 2022, FIPUG petitioned to intervene in this case because a substantial number of FIPUG members will be affected by the Commission's action on FCG's petition.²

FEA presented the testimony of Christopher Walters and Brian Collins in this proceeding. Mr. Walters' testimony addressed the regulated utility industry's access to capital, credit rating trends and outlooks, and recent trends concerning the authorized ROE for utilities throughout the country³. Mr. Walters also provided an overview of the market's perception of FCG's investment risk, commented on FCG's proposed capital structure, and presented the analyses he relied on to estimate an appropriate ROE for the Company.⁴ Based on the results of these analyses, Mr.

¹ Order PSC-2022-0262-PCO-GU, Granting FEA's Petition to Intervene (July 6, 2022).

² On November 7, 2022, the Commission granted FIPUG's petition on a provisional basis as a result of FCG's initial opposition to FIPUG's intervention. At the hearing, FCG withdrew its opposition and stipulated to FIPUG's standing to participate in this proceeding.

³ See generally FEA Direct Testimony of Christopher C. Walters (August 26, 2022).

⁴ *Id.*

Walters concludes that a fair and reasonable common equity ratio of 50.0 % is more consistent with the capital structures of the proxy group used to estimate the Company's cost of equity.⁵ Additionally, based on Mr. Walters' cost of equity estimation methods, Mr. Walters estimates that the Company's current market cost of equity is in the reasonable range of 9.0% to 9.8%, with a midpoint estimate of 9.4%.⁶

Mr. Collins' testimony addressed the Company's proposed spread of its requested increase across rate classes and the reasonableness and accuracy of the Company's class cost of service study ("CCOSS").⁷ Mr. Collins proposes that FCG's CCOSS improperly allocates the costs of distribution mains to customer classes only on the basis of a demand component and not on the basis of both demand and customer components.⁸ His testimony explains that FCG uses a non-traditional version of the Peak and Average ("P&A") method which does not reflect class cost causation because it carries the costs of certain FCG customer classes and improperly places it on the shoulders of large industrial customers, such as the military and members of Intervenor Florida Industrial Power Users Group, for them to bear.⁹ Mr. Collins' testimony further explains that he recommends an alternative CCOSS that more properly allocates costs to all FCG customer classes.¹⁰ In addition, Mr. Collins recommends an alternative class revenue allocation based on his CCOSS.¹¹ His class revenue allocation proposal implements rate mitigation and limits classes to no more than 1.5 times the system average increase.¹² Mr. Collins' testimony also states FCG has not justified its requested rate case expense, which is a 63% increase from the level of rate case

⁵ See FEA Direct Testimony of Christopher C. Walters (August 26, 2022) at 2.

⁶ *Id.*

⁷ See generally FEA Direct Testimony of Brian C. Collins (August 26, 2022).

⁸ See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 2.

⁹ See generally FEA Direct Testimony of Brian C. Collins (August 26, 2022).

¹⁰ See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 2-3.

¹¹ *Id.* at 3.

¹² *Id.* at 19.

expense included in the Company's prior rate case.¹³ Lastly, Mr. Collins proposes that the RSAM should not be approved because it will result in customers improperly paying excessive rates.¹⁴

ISSUES, POSITIONS, AND ARGUMENTS

TEST PERIOD AND FORECASTING

ISSUE 1: Is FCG's projected test period of the twelve months ending December 31, 2023, appropriate?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 2: Are FCG's forecasts of customer and therms by rate class for the projected test year ending December 31, 2023, appropriate? If not, what adjustments should be made?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 3: Are FCG's estimated revenues from sales of gas by rate class at present rates for the projected test year appropriate? If not, what adjustments should be made?

FEA: No position.

FIPUG: Adopt position of OPC.

QUALITY OF SERVICE

ISSUE 4: Is the quality of service provided by FCG adequate?

FEA: No position.

FIPUG: Adopt position of OPC.

DEPRECIATION STUDY

¹³ *Id.* at 3.

¹⁴ *Id.* at 23.

ISSUE 5: Based on FCG’s 2022 Depreciation Study, what are the appropriate depreciation parameters (e.g., service lives, remaining life, net salvage percentage, and reserve percentage) and resulting depreciation rates for each distribution and general plant account?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 6: If the Commission approves FCG’s proposed RSAM (Issue 67), what are the appropriate depreciation parameters (e.g., service lives, remaining lives, net salvage percentages, and reserve percentages) and depreciation rates?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 7: Based on the application of the depreciation parameters that the Commission has deemed appropriate to FCG’s data, and a comparison of the theoretical reserves to the book reserves, what, if any, are the resulting imbalances?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 8: What, if any, corrective depreciation reserve measures should be taken with respect to any imbalances identified in Issue 7?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 9: What should be the implementation date for revised depreciation rates and amortization schedules?

FEA: No position.

FIPUG: Adopt position of OPC.

RATE BASE

ISSUE 10: Has FCG made the appropriate adjustment to Rate Base to transfer the SAFE investments as of December 31, 2022 from clause recovery to base rates?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 11: **Should FCG’s proposed Advanced Metering Infrastructure (AMI) Pilot be approved? If so, what adjustments, if any, should be made?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 12: **What is the appropriate amount of plant in service for FCG’s delayed LNG facility that was approved in its last rate case?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 13: **What is the appropriate level of plant in service for the projected test year? (Fallout Issue)**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 14: **Has FCG made the appropriate adjustments to remove all non-utility activities from Plant in Service, Accumulated Depreciation, and Working Capital?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 15: **Should any adjustments be made to the amounts included in the projected test year for acquisition adjustment and accumulated amortization of acquisition adjustment?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 16: **What is the appropriate level of CWIP to include in the projected test year?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 17: What is the appropriate level of Gas Plant Accumulated Depreciation and Amortization for the projected test year?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 18: Have under recoveries and over recoveries related to the Purchased Gas Adjustment, Energy Conservation Cost Recovery, and Area Expansion Plan been appropriately reflected in the Working Capital Allowance?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 19: Should the unamortized balance of Rate Case Expense be included in Working Capital and, if so, what is the appropriate amount to include?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 20: What is the appropriate amount of deferred pension debit in working capital for FCG to include in rate base?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 21: Should the unbilled revenues be included in working capital?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 22: What is the appropriate level of working capital for the projected test year?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 23: What is the appropriate level of rate base for the projected test year? (Fallout Issue)

FEA: No position.

FIPUG: Adopt position of OPC.

COST OF CAPITAL

ISSUE 24: What is the appropriate amount of accumulated deferred taxes to include in the projected test year capital structure?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 25: What is the appropriate amount and cost rate for short-term debt to include in the projected test year capital structure?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 26: What is the appropriate amount and cost rate for long-term debt to include in the projected test year capital structure?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 27: What is the appropriate amount and cost rate for customer deposits to include in the capital structure?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 28: What is the appropriate equity ratio to use in the capital structure for ratemaking purposes?

FEA: Mr. Walters' testimony states that a common equity ratio of no higher than 50% is fair, reasonable, and more consistent with the capital structures of the proxy group used to estimate FCG's cost of equity.

FIPUG: Join position of FEA.

ARGUMENT:

The Company's request of a common equity ratio of 59.6% is not appropriate and should be rejected. The Commission should approve a common equity ratio of no higher than 50%. The utilities industry common equity ratio has not deviated from the range of 50.0 % to 52.0%.¹⁵ As explained in Mr. Walters' testimony, the Company's proposed equity ratio exceeds both the authorized equity ratio for regulated gas utilities around the country over the past several years and significantly exceeds the proxy group's average common equity ratio of 38.6% (including short-term debt) and 44.6% (excluding short-term debt).¹⁶ More notably, Mr. Walters relied on the same proxy group developed by Company witness Jennifer Nelson, but the Company's assumed equity ratio of 59.60% is nearly eight percentage points higher than that of the proxy group's comparable equity ratio.¹⁷ Additionally, the Company's proposed equity ratio when considering common equity and long-term debts is 62.53% (excluding short-debt), but the 59.60% common equity ratio is based on total debt.¹⁸ Therefore, the Company's requested common equity ratio should be rejected and the Commission should approve a common equity ratio of no higher than 50.0%.

ISSUE 29: What is the appropriate authorized return on equity (ROE) to use in establishing FCG's projected test year revenue requirement?

FEA: Christopher Walters' testimony provides that the appropriate return on common equity to use in establishing FCG's test year revenue requirement is in the range of 9.00% to 9.80% with a midpoint of 9.40%.

FIPUG: Join position of FEA.

¹⁵ See FEA Direct Testimony of Christopher C. Walters (August 26, 2022) at 5.

¹⁶ *Id.* at 5; 22-24; 69.

¹⁷ *Id.* at 22-24.

¹⁸ *Id.* at 69.

ARGUMENT:

FEA witness Mr. Walters provided an overview of the observable market evidence regarding trends in authorized ROEs for utilities, credit standing, utilities' access to capital, and recent policy actions taken by the Federal Reserve, all of which should be considered when determining a fair return for FCG.¹⁹ With respect to trends in authorized ROEs, Mr. Walters observed that electric and gas utility ROEs have declined in the last 10 years and have been below 10.0% for approximately the past 9 years.²⁰ Since 2016, the majority of authorized ROEs for gas utilities have been below 9.7% and several have been below 9.5%.²¹ As further documented in Mr. Walters' testimony, utility credit ratings have improved since 2009 and, notably, 100% of natural gas utilities have had at least a BBB rating from S&P since 2018.²²

Another trend addressed by Mr. Walters is that utilities have been able to access external capital to support their capital expenditure programs, with capital expenditures for utilities having increased considerably over the period 2010 into 2021.²³ Mr. Walters noted that S&P Global Market Intelligence's April 11, 2022 Utility Capital Expenditures Update reported that the utility industry's capital investments remain at elevated levels and are anticipated to fuel the profit growth of utility companies into the foreseeable future.²⁴ Additionally, market valuations of utility stocks are strong, which Mr. Walters explained is an indication that utilities are able to access equity capital at lower costs and under reasonable terms.²⁵ Mr. Walters' overall assessment is that

¹⁹ *Id.* at 3-16

²⁰ *Id.* at 2-3.

²¹ *Id.* at 5.

²² *Id.* at 7.

²³ *Id.* at 8.

²⁴ *Id.*

²⁵ *Id.* at 9.

“[g]enerally, authorized ROEs, credit standing, and access to capital have been quite robust for utilities over the last several years, even throughout the duration of the global pandemic.”²⁶

With respect to the current economic environment, Mr. Walters concluded that monetary policy actions recently taken by the Federal Reserve, which are known to market participants, and independent economists’ outlooks regarding future interest rates indicate a relatively stable market for public utilities.²⁷ Mr. Walters also addressed the impact of Russia’s invasion of Ukraine on the market environment and referenced the CFA Institute Research Foundation’s research concluding that the impact of previous wars and armed conflicts on economic markets has generally been transitory.²⁸ Despite rising inflation and interest rates, as well as Russia’s ongoing invasion of Ukraine, the S&P 500 Utilities index demonstrates that utilities in general have significantly outperformed the market since the end of 2021, as measured by the S&P 500 and Nasdaq Composite.²⁹

Cost of Common Equity Overview

The purpose of the rate of return testimony provided in this proceeding is to estimate the expected return that investors require on an investment in the Utility.³⁰ The determination of a fair market-required return is governed in part by the standards set forth in two key U.S. Supreme Court decisions: *Bluefield Water Works & Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).³¹ In accordance with these decisions, a utility should be authorized a

²⁶ *Id.* at 10.

²⁷ *Id.* at 10-16.

²⁸ *Id.* at 16-17.

²⁹ *Id.* at 17.

³⁰ *Id.* at 18.

³¹ *Id.* at 18-19.

return sufficient to maintain its financial integrity and to attract capital on reasonable terms.³² Additionally, the return should be commensurate with returns investors could earn by investing in other companies of comparable risk.³³ FEA witness Mr. Walters' estimated current market cost of equity range of 9.0% to 9.8%, with a midpoint estimate of 9.4%, for the Company is consistent with the standards set forth in these decisions for determining a utility's fair cost of common equity.³⁴

In addition to FEA, Office of Public Counsel ("OPC"), and FCG also made ROE recommendations in this proceeding. OPC witness David Garrett recommended an ROE for the Company of 9.25%.³⁵ Mr. Walters' ROE recommendation is in line with the recommendation provided by OPC. Unlike the reasonable ROE recommendations made by FEA and OPC, FCG's witness Jennifer Nelson recommended a 10.75% ROE.³⁶ As discussed below and in detail in Mr. Walters' testimony, Ms. Nelson's ROE estimates are based on flawed analyses that produced inflated results and should be rejected.³⁷

FEA's ROE Recommendation Accurately Reflects the Current Market Cost of Equity

Mr. Walters estimated that FCG's current market cost of equity is in the range of 9.0% to 9.8%, with a midpoint estimate of 9.4%.³⁸ Mr. Walters developed his reasonable ROE recommendation using the Discounted Cash Flow ("DCF") model, Risk Premium model, and Capital Asset Pricing Model ("CAPM").³⁹ As noted above, these models were applied to the proxy

³² *Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n*, 262 U.S. 679, 692-93 (1923); *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

³³ *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944).

³⁴ See FEA Direct Testimony of Christopher C. Walters (August 26, 2022) at 19.

³⁵ See OPC Direct Testimony of David J. Garrett (August 26, 2022) at 2.

³⁶ See FCG Direct Testimony of Jennifer E. Nelson (May 31, 2022) at 6.

³⁷ See FEA Direct Testimony of Christopher C. Walters (August 26, 2022) at 52.

³⁸ *Id.* at 2.

³⁹ *Id.* at 19-20.

group developed by FCG witness Ms. Nelson.⁴⁰ Based on his analyses, the low-end of his recommended range is based on his DCF results and the high-end is based on his Risk Premium results.⁴¹ Additionally, his CAPM estimate falls within his recommended range.⁴² As discussed above with respect to the Company's equity ratio, FEA recommends that the Commission approve an ROE within the range of 9.00% to 9.80% with a midpoint of 9.40% and a common equity ratio of no higher than 50.00%.

The Discounted Cash Flow Model Supports a 9.0% ROE

Mr. Walters performed three variations of the DCF model: (1) a constant growth DCF model based on analysts' growth rate data; (2) a constant growth DCF model based on sustainable growth rates; and (3) a multi-stage DCF model.⁴³ The DCF model posits that a stock price equals the sum of the present value of expected future cash flows discounted at the investor's required rate of return or cost of capital."⁴⁴

Mr. Walters first conducted a constant growth DCF model analysis using the average of the weekly high and low prices of the proxy group utilities over a period of 13 weeks ending on July 8, 2022 for the stock price and the most recently paid quarterly dividends reported in *Value Line*.⁴⁵ Regarding dividend growth rates, Mr. Walters used the mean of professional securities analysts' earnings growth estimates as a proxy for investors' growth rate expectations as securities analysts' growth estimates have been shown to be more accurate than estimates based on historical data.⁴⁶ Based on the above inputs, Mr. Walters' constant growth DCF model results for

⁴⁰ *Id.* at 40.

⁴¹ *Id.* at 51; Table CCW-12.

⁴² *Id.*

⁴³ *Id.* at 24

⁴⁴ *Id.* at 25

⁴⁵ *Id.* at 25-26.

⁴⁶ *Id.* at 26.

the proxy group are an average return of 9.31% and median return of 9.14%.⁴⁷ However, Mr. Walters cautioned that since the three-year to five-year growth rates this model relies on are almost 40% higher than the projected long-term Gross Domestic Product (“GDP”) growth rate of 4.35%, these growth rates are not sustainable.⁴⁸

Next, Mr. Walters applied the sustainable growth DCF model.⁴⁹ A sustainable growth rate, or internal growth rate, “is based on the percentage of the utility’s earnings that is retained and reinvested in utility plant and equipment.”⁵⁰ Mr. Walters calculated the proxy group’s sustainable, or internal, growth rate as an average of 5.67% and median of 5.53%.⁵¹ These average and median sustainable growth rates result in an average return estimate of 9.02% and median return estimate of 9.20%.⁵²

Since growth can change over time, Mr. Walters also conducted a multi-stage growth DCF analysis that applies growth rates over three periods: (1) short-term (years 1 to 5); (2) transition period (years 5 to 10); and (3) long-term (year 11 and beyond).⁵³ Mr. Walters used the consensus of analysts’ growth projections of 5.95% for the short-term, the maximum sustainable growth rate of 4.35% for the long-term, and assumed a straight linear trend during the transition period.⁵⁴ The results of Mr. Walters’ multi-stage DCF model are an average return estimate of 7.99% and median return estimate of 8.19%.⁵⁵ Based on the result of the three DCF models, Mr. Walters concluded that a DCF return estimate of 9.0% is reasonable.⁵⁶

⁴⁷ *Id.* at 27.

⁴⁸ *Id.* at 27-28.

⁴⁹ *Id.* at 29.

⁵⁰ *Id.* at 29, lines 5-7

⁵¹ *Id.*

⁵² *Id.* at 30.

⁵³ *Id.* at 31.

⁵⁴ *Id.* at 35.

⁵⁵ *Id.*

⁵⁶ *Id.*

The Risk Premium Model Supports a 9.8% ROE

Mr. Walters also used the Risk Premium model, which “is based on the principle that investors require a higher return to assume greater risk.”⁵⁷ Common equity securities are considered to be higher risk than bond securities because “bonds have more security of payment in bankruptcy proceedings than common equity and the coupon payments on bonds represent contractual obligations.”⁵⁸ The Risk Premium model uses two estimates of equity risk premium: (1) the difference between ROEs authorized by regulatory commissions and contemporary U.S. Treasury bond yield; and (2) the difference between ROEs authorized by regulatory commissions and Moody’s contemporary “A” rated utility bond yields.⁵⁹ Mr. Walters used the period of 1986 through 2021 because public utility stocks traded consistently at a premium to book value during that period of time.⁶⁰

Mr. Walters’ analysis indicated an average equity risk premium over U.S. Treasury bond yields of 5.66%.⁶¹ To account for variations in the risk premium over time due to changes in market conditions and investors’ risk perceptions, Mr. Walters used an estimated range of risk premiums to measure the current return on equity based on the Risk Premium model.⁶² Using this methodology, Mr. Walters calculated that the average equity risk premium over contemporary “A” rated Moody’s utility bond yields to be 4.30% and the 5-year and 10-year rolling average risk premiums to range from 2.80% to 5.97% and 3.11% to 5.75%, respectively.⁶³ Additionally, Mr. Walters considered the yield spread between utility bonds and U.S. Treasury bonds over the past 43 years and determined that, for this period of time, the average utility bond yield spreads

⁵⁷ *Id.* at 36, lines 6-7

⁵⁸ *Id.* at 36, lines 7-9

⁵⁹ *Id.* at 36-37.

⁶⁰ *Id.* at 37.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.* at 38.

over U.S. Treasury bonds for “A” rated and “Baa” rated utility bonds are 1.48% and 1.91%, respectively.⁶⁴ Mr. Walters concluded that these yield spreads indicate that utility bond securities have had average to above average demand as compared to U.S. Treasury securities over the past several years.⁶⁵ Based on these results, Mr. Walters determined that a Risk Premium return estimate of 9.8% is reasonable.⁶⁶

The Capital Asset Pricing Model Supports a 9.4% ROE

The final model Mr. Walters used to determine his ROE recommendation is the CAPM method, which “is based upon the theory that the market-required rate of return for a security is equal to the risk-free rate, plus a risk premium associated with the specific security.”⁶⁷ For this model, Mr. Walters used the following inputs: (1) *Blue Chip Financial Forecasts*’ projected 30-year Treasury bond yield of 3.80% as the market risk-free rate;⁶⁸ (2) current beta estimates from *Value Line* and Market Intelligence’s Beta Generator Model, as well as long-term historical average betas from *Value Line*;⁶⁹ and (3) market risk premium estimates derived from a risk premium and DCF approach.⁷⁰ However, with respect to the market risk premium estimates, he also took into consideration the normalized market risk premium of 5.50% with the normalized risk-free rate of 3.50% published by Kroll.⁷¹ He presented several estimates of the CAPM that relied on different measures of the expected market return, market risk premium, and beta.⁷² Based on the results of the nine versions of the CAPM that Mr. Walters applied, he concluded that a

⁶⁴ *Id.* at 39, lines 6-8.

⁶⁵ *Id.* at 39-40.

⁶⁶ *Id.* at 40.

⁶⁷ *Id.* at 41.

⁶⁸ *Id.* at 42.

⁶⁹ *Id.* at 43. The average beta estimates are 0.83, 0.74, and 0.58 for the *Value Line* (current), *Value Line* (historical average), and Market Intelligence’s Beta Generator Model, respectively.

⁷⁰ *Id.* at 44.

⁷¹ *Id.*

⁷² *Id.* at 49-50.

reasonable CAPM return estimate is 9.4%.⁷³

FCG Witness Nelson's Inputs and Methodology Inflate Her ROE Results

Company witness Ms. Nelson recommended an ROE of 10.75%.⁷⁴ The Commission should reject Ms. Nelson's recommendations because they are significantly overstated. As explained by Mr. Walters, to reach these excessive results, Ms. Nelson relied on inflated inputs and flawed applications of the DCF model, CAPM, and Empirical CAPM ("ECAPM").⁷⁵ Notably, the deficiencies in Ms. Nelson's ROE analyses identified by Mr. Walters all led to her results being higher than they should have been. As illustrated in Table CCW-13 in Mr. Walters' Testimony, after he made prudent and reasonable adjustments to Ms. Nelson's ROE estimates, her studies support Mr. Walters' recommended ROE range.⁷⁶

As Mr. Walters explained, Ms. Nelson's DCF analysis produces unreasonable results for several reasons. First, her constant growth DCF results are based on unsustainably high growth rates, resulting in an average proxy group growth rate of 6.07%,⁷⁷ which is excessive as it significantly exceeds the expected long-term growth rate of the U.S. economy of approximately 4.35%.⁷⁸ Ms. Nelson should have taken into account the results of a multi-stage DCF model, as Mr. Walters did, due to her proxy group growth rates being substantially higher than the 4.35% maximum sustainable growth rate.⁷⁹

Second, Ms. Nelson included quarterly compounding in her DCF return estimates to replicate reinvestment of quarterly dividends over a year.⁸⁰ However, that can overstate a fair

⁷³ *Id.* at 50; Table CCW-11.

⁷⁴ *See* FCG Direct Testimony of Jennifer E. Nelson (May 31, 2022) at 6.

⁷⁵ *See* FEA Direct Testimony of Christopher C. Walters (August 26, 2022) at 52.

⁷⁶ *Id.* at 52-53; Table CCW-13

⁷⁷ *Id.* at 54.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

ROE for setting rates.⁸¹ This should not be used as a cost of capital in setting utility rates because the return that goes to investors from reinvesting dividends is not a cost to the utility.⁸² Investors then have an opportunity to earn the quarterly compound twice.⁸³ First, by the Company setting rates that will increase the ROE and include a dividend reinvestment without reinvesting it in the Company.⁸⁴ Second, investors are then allowed to earn the reinvestment dividend return again when they receive dividends from the utilities and reinvest those dividends in alternative investments.⁸⁵ Lastly, in Column 2 in Table CCW-13, Mr. Walters presents the midpoint of DCF results from Ms. Nelson’s constant growth DCF analyses along with the results for his multi stage DCF model to reflect a “reasonable long-term sustainable growth rate.”⁸⁶ Based off these results, Ms. Nelson’s DCF mean adjusted results supported an ROE no higher than 9.0%.⁸⁷ For these reasons, Ms. Nelson’s DCF analyses should be rejected.

Ms. Nelson also erred in her CAPM analysis as her DCF-derived market risk premium has expected return on the market that includes individual growth rates as high as 307.15%.⁸⁸ Additionally, Ms. Nelson’s DCF for the market includes 70 growth rates that exceed 20% and four are greater than 135%.⁸⁹ These are impossible outcomes that show Ms. Nelson’s CAPM analysis is inflated and not reliable. However, Mr. Walters’ testimony demonstrates that after applying corrected market risk premium estimates to Ms. Nelson’s CAPM analysis, her CAPM would produce a more reasonable mean of 9.17 to 9.38%.⁹⁰

⁸¹ *Id.*

⁸² *Id.* at 54-55.

⁸³ *Id.* at 55.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.* at 52 and 55; Table CCW-13.

⁸⁷ *Id.* at 55.

⁸⁸ *Id.* at 57.

⁸⁹ *Id.*

⁹⁰ *Id.* at 59.

Lastly, Ms. Nelson's ECAPM analysis is also flawed because she used an adjusted beta.⁹¹ By using an adjusted beta, Ms. Nelson unjustifiably flattened the security market line and materially inflated a CAPM return for her proxy group because their beta estimates are less than 1.⁹² Figure CCW-6 in Mr. Walters' testimony demonstrates the end result of using adjusted betas in the ECAPM is essentially an expected return line that has been flattened by two adjustments: once through *Value Line's* adjustments made to the raw beta and again by weighting the risk-adjusted market risk premium, as Ms. Nelson did.⁹³ Ms. Nelson's application of the adjusted beta in her ECAPM is unreasonable and, therefore, her ECAPM analysis should be rejected.

ISSUE 30: Has FCG made the appropriate adjustments to remove all non-utility investments from the common equity balance?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 31: What is the appropriate weighted average cost of capital to use in establishing FCG's projected test year revenue requirement?

FEA: FEA did not specify an appropriate weighted average cost of capital to use in establishing FCG's projected test year revenue requirement. Notwithstanding the above, adopting the cost of capital parameters proposed by Christopher Walters, including a return on common equity of 9.40% and a common equity ratio of 50.0%, would produce a weighted average cost of capital of approximately 5.95%.

FIPUG: Adopt position of FEA.

ARGUMENT:

FEA did not specify an appropriate weighted average cost of capital to use in establishing FCG's projected test year revenue requirement. However, FEA recommends the Commission adopt the cost of capital parameters proposed by Christopher Walters, including a return on

⁹¹ *Id.* at 60.

⁹² *Id.* at 61-62.

⁹³ *Id.* at 60.

common equity of 9.40% and a common equity ratio of 50.0%, which would produce a weighted average cost of capital of approximately 5.95%.

NET OPERATING INCOME

ISSUE 32: Has FCG properly removed Purchased Gas Adjustment and Natural Gas Conservation Cost Recovery Clause revenues, expenses, and taxes-other-than-income from the projected test year?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 33: Has FCG made the appropriate adjustment to Net Operating Income to remove amounts associated with the transfer of SAFE investments as of December 31, 2022 from clause recovery to base rates?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 34: Should FCG's proposal to transfer outside service costs incurred for clause dockets from base rates to each of the respective cost recovery clause dockets be approved and, if so, has FCG made the appropriate adjustments to remove all such outside service costs incurred for clause dockets from the projected test year operating revenues and operating expenses?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 35: What is the appropriate amount of miscellaneous revenues?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 36: Is FCG's projected Total Operating Revenues for the projected test year appropriate? (Fallout Issue)

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 37: Has FCG made the appropriate adjustments to remove all non-utility activities from operation expenses, including depreciation and amortization expense?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 38: What is the appropriate amount of salaries and benefits to include in the projected test year?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 39: What is the appropriate amount of the affiliate expense to be included in the projected test year?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 40: What is the appropriate amount of pensions and post-retirement benefits expense to include in the projected test year?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 41: Is the injuries and damages expense in the test year reasonable?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 42: Is the insurance expense in the test year reasonable and/or appropriate?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 43: Is the level of projected contractor cost reasonable, appropriate and/or justified?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 44: **Should the projected test year O&M expenses be adjusted to reflect changes to the non-labor trend factors for inflation and customer growth?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 45: **Should FCG’s proposal to continue the Storm Damage Reserve provision included in the 2018 Settlement Agreement be approved and, if so, what is the appropriate annual storm damage accrual and target reserve amount?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 46: **Is a Parent Debt Adjustment pursuant to Rule 25-14.004, Florida Administrative Code, appropriate, and if so, what is the appropriate amount?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 47: **What is the appropriate annual amount and amortization period for Rate Case Expense?**

FEA: Brian Collins’ testimony provides that the appropriate amount for rate case expense should be the amount approved in the prior rate case adjusted for inflation, or approximately \$1.427 million. This would lower FCG’s amortization expense by \$141,000 and lower the deferred rate case expenses in rate base in 2023 by approximately \$494,000.

FIPUG: Join position of FEA.

ARGUMENT:

FCG estimates the rate case expense to be \$2.0 million over a four-year amortization period beginning in January 2023.⁹⁴ FCG witness Liz Fuentes stated in her testimony that the proposed rate cases expense includes \$1.6 million for affiliate rate case support from FPL, \$.04 million for

⁹⁴ See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 20.

external consultant and legal services, and \$.01 million for miscellaneous expenses.⁹⁵ FCG provided the details of their projected rate case expenses through Schedule C-13.⁹⁶ The 2023 test year expense is a 13-month average of \$1,742,227 of deferred rate case expenses in rate base and \$497,779 in amortization expense.⁹⁷ FEA witness Brian Collins testified FCG’s current rate case expense request is an increase of over \$700,000 or 63% higher than the expense included in the Company’s previous rate case and is “not justified.”⁹⁸ Mr. Collins also states that a majority of FCG’s rate cases expenses shown in Schedule C-13 come from FPL’s affiliated support but FCG does not demonstrate what exactly FPL is providing and why their support was not needed in the previous rate case but is needed for the present rate case.⁹⁹ Further, Schedule C-13 provides comparisons that show the increase in rate case expense between the present case and prior case.¹⁰⁰ Mr. Collins’ testimony states, “[w]hile the rate case expense as a percent of rate base remains the same between the current and prior cases (0.41%), rate case expense as a percentage of revenues increased and rate case expense per customer increased.”¹⁰¹ Lastly, Mr. Collins recommends the Commission limit FCG’s rate case expense to the previous amount that was approved in the prior rate case with adjustment for inflation.¹⁰² This would be approximately \$1.427 million and would lower FCG’s amortization expense by approximately \$141,000 and lower the deferred rate case expenses in rate base by approximately \$494,000.¹⁰³

ISSUE 48: Should an adjustment be made to Uncollectible Accounts and for Bad Debt in the Revenue Expansion Factor?

FEA: No position.

⁹⁵ See FCG Direct Testimony of Liz Fuentes (May 31, 2022) at 17.

⁹⁶ See FCG EX 4 (Exhibit MFR-C, Schedule C-13).

⁹⁷ See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 20; Exhibit BCC-2.

⁹⁸ *Id.* at 20.

⁹⁹ *Id.* at 21.

¹⁰⁰ See FCG EX 4 (Exhibit MFR-C, Schedule C-13).

¹⁰¹ FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 21.

¹⁰² *Id.*

¹⁰³ *Id.*

FIPUG: Adopt position of OPC.

ISSUE 49: **What is the appropriate amount of projected test year O&M expenses? (Fallout Issue)**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 50: **Should any adjustments be made to the amounts included in the projected test year for amortization expense associated with the acquisition adjustment?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 51: **What is the appropriate amount of Depreciation and Amortization Expense for the projected test year?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 52: **What is the appropriate amount of projected test year Taxes Other than Income?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 53: **What is the appropriate amount of projected test year Income Tax Expense? (Fallout Issue)**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 54: **What is the appropriate amount of Total Operating Expenses for the projected test year? (Fallout Issue)**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 55:

What is the appropriate amount of Net Operating Income for the projected test year? (Fallout Issue)

FEA: No position.

FIPUG: Adopt position of OPC.

REVENUE REQUIREMENTS

ISSUE 56: **What are the appropriate revenue expansion factor and the appropriate net operating income multiplier, including the appropriate elements and rates for FCG?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 57: **What is the appropriate annual operating revenue increase for the projected test year? (Fallout Issue)**

FEA: No position.

FIPUG: Adopt position of OPC.

COST OF SERVICE AND RATE DESIGN

ISSUE 58: **Is FCG's proposed cost of service study appropriate and, if so, should it be approved for all regulatory purposes until base rates are reset in FCG's next general base rate proceeding?**

FEA: No. Brian Collins' testimony provides that FCG's class cost of service study ("CCOSS") is not appropriate. Furthermore, the CCOSS does not accurately reflect class cost causation because it uses the P&A method to allocate the cost of mains to customer classes and also fails to classify and allocate any distribution mains costs on a customer basis.

FIPUG: Join position of FEA.

ARGUMENT:

Cost of Service Overview

FEA witness Mr. Collins evaluated the Company's filed CCOSS and determined it is

flawed as: (1) it does not reflect class cost causation;¹⁰⁴ (2) FCG’s P&A method is not a traditional P&A method;¹⁰⁵ and (3) FCG’s P&A method improperly allocates the costs of mains to customer classes primarily on a volumetric basis and also fails to classify and allocate any distributions mains costs on a customer basis.¹⁰⁶ To correct these flaws in FCG’s CCOSS, FEA recommends that the FCG CCOSS properly reflect cost causation and classify mains costs on both a demand and customer basis.¹⁰⁷ By doing so the demand component would be allocated to classes based on the design day demand and the customer component would be allocated to classes based on the number of customers in each class.¹⁰⁸

A CCOSS Should Properly Reflect Cost Causation

FEA witness Mr. Collins’ testimony states that the main objective of a CCOSS is to allocate costs to utility customer classes that is reasonably consistent with the incurrence of those costs.¹⁰⁹ As explained by Mr. Collins, a fundamental question when selecting a CCOSS is whether the methodology reflects cost causation.¹¹⁰ The *Gas Distribution Rate Design Manual* published by The National Association of Regulatory Utility Commissioner (“NARUC”) described this principle as follows:

Historic or embedded cost of service studies attempt to apportion total costs to the various customer classes in a manner consistent with the incurrence of those costs. This apportionment must be based on the fashion in which the utility’s system, facilities and personnel operate to provide the service.¹¹¹

In accordance with this methodology Mr. Collins states in his testimony that when a gas distribution utility installs a new distribution main to expand the capacity of its system, it must

¹⁰⁴ See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 10.

¹⁰⁵ *Id.* at 11-12.

¹⁰⁶ *Id.* at 16.

¹⁰⁷ *Id.* at 9.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

consider two factors.¹¹² First, it should design its systems to ensure that it will be capable of meeting customers' demand on a system peak day or design day.¹¹³ This will show the need for expansion.¹¹⁴ It also will show the proper size that will be needed for the expanded distribution mains to be installed which will also dictate the costs to the utility.¹¹⁵ Second, the utility must also design its system in such a way that all customers are physically connected to the system.¹¹⁶ By having all customers physically connected to the system the total length of mains will depend upon the number of customers being served.¹¹⁷ Thus, the costs that the utility incurs to provide service are driven by both peak day demand and the number of customers connected to the system.¹¹⁸

With respect to FCG's proposed CCOSS, Mr. Collins testimony states that the Company fails to allocate the cost of distribution mains to customer classes on the basis of each class's contribution to the total design day demand of the system and the number of customers within each class.¹¹⁹ Mr. Collins goes on to state that FCG's CCOSS fails to allocate costs based on how they are incurred because it allocates distribution mains costs based on the P& A method, which is inconsistent with the cost-causation principle.¹²⁰ Instead, its method allocates capacity-related main costs primarily on each class's annual usage which does not reflect cost causation.¹²¹ Therefore, it is not reasonable for the purposes of setting rates in this case.

FCG's P&A Method is Not a Traditional P&A Method

¹¹² See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 10.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 10-11.

¹¹⁹ *Id.* at 11.

¹²⁰ *Id.*

¹²¹ *Id.*

Based on Mr. Collins' experience, a traditional P&A CCOSS has class capacity allocators that are determined by each class's contribution to the system design day demand, weighted by (1 – system load factor) and by each class's contribution to system annual usage, weighted by the system load factor.¹²² However, the CCOSS that was filed by FCG in this case did not use a class design day demand for peak allocators, which is used normally in a P&A CCOSS.¹²³ As stated by Mr. Collins, FCG instead used the sum of 13 months of volumes for its class P&A allocators (12 actual monthly usages plus the maximum monthly volumes), which allocated capacity-related main costs to primarily on annual usage and not on demand.¹²⁴ Additionally, Mr. Collins stated that allocating costs on annual usage is not to the customer's benefit for those customers that make more efficient use of their facilities.¹²⁵ Based on the annual usage-based allocation, a customer that uses the distribution systems more efficiently pays a higher premium for design day capacity than a customer that uses the systems less efficiently.¹²⁶

Alternative CCOSS

FEA recommends the Commission adopt Mr. Collins' alternative CCOSS shown in his Exhibit BCC-1.¹²⁷ Mr. Collins' CCOSS more properly allocates the costs to all FCG customer classes by basing capacity allocators for classes on a composite allocator that utilizes a peak component and a customer component.¹²⁸ Mr. Collins reasonably relied on a customer component based on a minimum system that is weighted by 59%.¹²⁹ FCG did not provide Design Day demands for its classes in its CCOSS.¹³⁰ Therefore, Mr. Collins determined the peak component

¹²² *Id.* at 12

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.* at 13.

¹²⁶ *Id.* at 14-15.

¹²⁷ *Id.* at 2-3;19; Exhibit BCC-1.

¹²⁸ *Id.* at 18.

¹²⁹ *Id.*

¹³⁰ *Id.*

by each class's contribution to the sum of FCG's classes' non-coincident peak monthly volumes and is weighted by 41%.¹³¹ Lastly, Mr. Collins stated in testimony that his CCOSS better reflects class causation because the allocators include both a peak component and a customer component.¹³² Mr. Collins stated that his CCOSS better reflects how the capacity costs are incurred, which more accurately reflect cost causation.¹³³

ISSUE 59: If the Commission grants a revenue increase to FCG, how should the increase be allocated to the rate classes?

FEA: Brian Collins' testimony provided that as depicted in Exhibit BCC-1 FCG's class revenue allocation be distributed to classes using the results of his CCOS study, with no class receiving an increase greater than 1.5 times the system average increase, and with no class receiving a rate decrease.

FIPUG: Join position of FEA.

ARGUMENT:

Based on the Company's CCOSS not accurately reflecting class cost causation, Mr. Collins' testimony recommends that the Company's class revenue allocation be distributed to classes using the results of his CCOSS.¹³⁴ As shown in exhibit BCC-1, Mr. Collins' class revenue allocation proposal move's each class's revenue increase to no greater than 1.5 times the systems average increase, and no class receiving a rate decrease.¹³⁵

ISSUE 60: Are FCG's proposed Customer Charges appropriate?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 61: Are FCG's proposed per therm Distribution Charges appropriate?

¹³¹ *Id.*

¹³² *Id.* at 19.

¹³³ *Id.*

¹³⁴ *Id.* at 19.

¹³⁵ *Id.* at 19; Exhibit BCC-1.

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 62: **Are FCG's proposed Demand Charges appropriate?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 63: **Are FCG's proposed connect and reconnection charges appropriate?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 64: **Is FCG's proposed per transportation customer charge applicable to Third Party Suppliers appropriate?**

FEA: **No position.**

FIPUG: Adopt position of OPC.

ISSUE 65: **What is the appropriate effective date for FCG's revised rates and charges?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 66: **Should the Commission give staff administrative authority to approve tariffs reflecting Commission approved rates and charges?**

FEA: No position.

FIPUG: Adopt position of OPC.

OTHER ISSUES

ISSUE 67: **Should the Commission approve FCG's requested Reserve Surplus Amortization Mechanism (RSAM)?**

FEA: No. Brian Collins' testimony provides that FCG's proposed RSAM should be denied because it does not incent FCG to manage its costs efficiently to the benefit

of its customers if it is automatically guaranteed its approved rate of return. Furthermore, the proposed RSAM shifts revenue recovery risk to FCG's customers.

FIPUG: Join position of FEA.

ARGUMENT:

FCG proposes a Reserve Surplus Amortization Mechanism (“RSAM”) that will be used to respond to changes in its underlying revenues and expenses during the four-year rate plan in order to maintain a Commission adjusted ROE within an authorized ROE range by the Commission.¹³⁶ Company witness Mark Campbell stated in his testimony that if the Commission approves the RSAM adjusted depreciation parameters and depreciation rates discussed by fellow Company witness Liz Fuentes, it would support a Reserve Amount up to \$52 million.¹³⁷ However, FCG requested an RSAM Reserve Amount of \$25 million be available during the four-year rate plan.¹³⁸

The Commission should reject the Company's proposed RSAM as it improperly shifts the risk of revenue recovery to customers so that the Company can receive its guaranteed approved rate of return.¹³⁹ Further, it does not give the Company an incentive to manage its costs efficiently to the benefits of its customers.¹⁴⁰ Instead, as explained by Mr. Collins, the RSAM allows the Company to adjust its depreciation expense, leading it to artificially inflating the rate base by distorting the accurate measurement of the undepreciated or net plant value of assets included in rate base over rate cycles.¹⁴¹ Mr. Collins added that approving the RSAM will lead to potential future costs to FCG customers.¹⁴²

¹³⁶ *Id.* at 21-22.

¹³⁷ *See* FCG Direct Testimony of Mark Campbell (August 26, 2022) at 29.

¹³⁸ *See* FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 22.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 23.

¹⁴² *Id.*

Under FCG’s proposal, the reduced depreciation expense will be used to increase the Company’s earnings and its return.¹⁴³ This will lead to customers paying more of a return over a longer period of time at a higher rate.¹⁴⁴ Additionally, FCG stated in its testimony that the RSAM will keep customers out of a rate case during a four-year period, which the Company claims leads to lowering the rate cases expenses.¹⁴⁵ However, nothing in the RSAM proposal legally can keep the Company from filing a rate case during the proposed four-year period. Mr. Collins stated in his testimony, “paying excessive rates can be far greater detriment to customer than rate case expense.”¹⁴⁶ Additionally, Mr. Collins points out FCG admitted in its testimony that it continues to see growth with customers on its system.¹⁴⁷ Customer growth on FCG’s system would provide revenue growth for the Company.¹⁴⁸ Based on the reasons set forth above, the RSAM is an imbalanced regulatory mechanism and should be rejected by the Commission.

ISSUE 68: **Should the Commission approve FCG’s proposal for addressing a change in tax law, if any, that occurs during or after the pendency of this proceeding?**

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 69: **Should the Commission approve FCG’s proposal to continue the SAFE program to include additional mains and services to be relocated from rear property easements to the street front? If so, what adjustments, if any, should be made?**

FEA: No position.

FIPUG: Adopt position of OPC.

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ See FCG Direct Testimony of Mark Campbell (August 26, 2022) at 27.

¹⁴⁶ See FEA Direct Testimony of Brian C. Collins (August 26, 2022) at 24, lines 1-2.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

ISSUE 70: Should the Commission approve FCG’s proposal to expand the SAFE program to include replacement of “orange pipe”? If so, what adjustments, if any, should be made?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 71: Should the Commission approve FCG’s requested four-year rate plan?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 72: Should FCG be required to file, within 90 days after the date of the final order in this docket, a description of all entries or adjustments to its annual report, rate of return reports, and books and records which will be required as a result of the Commission’s findings in this rate case?

FEA: No position.

FIPUG: Adopt position of OPC.

ISSUE 73: Should this docket be closed?

FEA: No position.

FIPUG: Adopt position of OPC.

Dated this 9th day of January 2023

Respectfully Submitted,

Attorney for Federal Executive Agencies

/s/ Marcus Duffy

Marcus Duffy, Capt, USAF
AF/JAOE-ULFSC
139 Barnes Drive, Suite 1
Tyndall Air Force Base, FL 32403
Marcus.duffy.3@us.af.mil
850-283-6348

and

**Attorney for Florida Industrial
Power Users Group**

Jon C. Moyle

Fla. Bar No. 727016

Karen Putnal

Fla. Bar No. 0037745

Moyle Law Firm, P.A.

118 North Gadsden Street

Tallahassee, Florida 32301

Telephone: (850)681-3828

kputnal@moylelaw.com

jmoyle@moylelaw.com

By: /s/ Jon C. Moyle

CERTIFICATE OF SERVICE
Docket No. 20220069-GU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail this 9th day of January 2022 to the following:

Florida Public Service Commission Office of the General Counsel Matthew Jones Walter Trierweiler 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 majones@psc.state.fl.us wtrierwe@psc.state.fl.us	Gunster Law Firm Beth Keating 215 South Monroe St., Suite 601 Tallahassee, FL 32301 (850) 521-1706 bkeating@gunster.com
Office of Public Counsel Richard Gentry Mary A. Wessling c/o The Florida Legislature 111 West Madison Street, Room 812 Tallahassee, FL 32399-1400 Gentry.richard@leg.state.fl.us Wessling.mary@leg.state.fl.us	Florida City Gas Christopher T. Wright Joel Baker 700 Universe Boulevard Juno Beach, FL 33408 (561) 691-7144 (561) 691-7135 christopher.wright@fpl.com joel.baker@fpl.com

/s/ Ebony M. Payton
Ebony M. Payton
Paralegal for FEA