

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for rate increase by Florida
Power & Light Company.

DOCKET NO. 20210015-EI
ORDER NO. PSC-2022-0358-FOF-EI
ISSUED: October 21, 2022

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

APPEARANCES

MARIA J. MONCADA, ESQUIRE, Managing Attorney, Florida Power & Light Company, 700 Universe Boulevard, Juno Beach, FL 33408
On behalf of Florida Power & Light Company (FPL).

RICHARD GENTRY, Public Counsel, and PATTY CHRISTENSEN, ESQUIRES; Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of Office of the Public Counsel (OPC).

ROBERT SCHEFFEL WRIGHT and JOHN T. LAVIA, III, ESQUIRES, Gardner, Bist, Bowden, Dee, LaVia, Wright, Perry & Harper, P.A., 1300 Thomaswood Drive, Tallahassee, Florida 32308
On behalf of Floridians Against Increased Rates, Inc. (FAIR).

JAMES W. BREW, ESQUIRE, Stone Mattheis Xenopoulos & Brew, PC, 1025 Thomas Jefferson Street, NW, Eighth Floor, West Tower, Washington, D.C. 20007
On behalf of Florida Retail Federation (FRF).

BRADLEY MARSHALL and JORDAN LUEBKEMANN, ESQUIRES, Earthjustice, 111 S. Martin Luther King Jr. Blvd., Tallahassee, Florida 32301 and CHRISTINA I. REICHERT, ESQUIRE, Earthjustice, 4500 Biscayne Blvd., Ste. 201, Miami, Florida 33137
On behalf of Florida Rising, Inc., League of United Latin American Citizens of Florida, and Environmental Confederation of Southwest Florida, Inc. (Fla. Rising, LULAC, ECOSWF).

NATHAN A. SKOP, ESQUIRE, 420 NW 50th Boulevard, Gainesville, FL 32607
On behalf of Alexandria Larson (Larson).

GEORGE CAVROS, ESQUIRE, Southern Alliance for Clean Energy, 120 E. Oakland Park Blvd., Suite 105, Fort Lauderdale, FL 33334
On behalf of Southern Alliance for Clean Energy (SACE).

SUZANNE BROWNLESS and SHAW P. STILLER, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
Florida Public Service Commission General Counsel.

ORDER IMPLEMENTING FLORIDA POWER & LIGHT
COMPANY'S RETURN ON EQUITY TRIGGER

BY THE COMMISSION:

BACKGROUND

On August 23, 2022, Florida Power & Light Company (FPL or Company) filed a Notice of Triggering Revised Authorized Return on Equity (Notice) stating that pursuant to the terms of its 2021 Settlement Agreement,¹ as amended by Order No. PSC-2021-0446A-S-EI, it was increasing its return on equity (ROE) to 10.8 percent and ROE range to 9.8 percent to 11.8 percent, effective September 1, 2022.

Sections 3(b) and (c) of the 2021 Settlement Agreement state as follows:

(b) If at any time during the Term, but no more than once during the Term, the average 30-year United States Treasury Bond yield rate for any period of six (6) consecutive months is at least 50 basis points greater than the yield rate on the date this Agreement is filed with the Commission (the "Trigger"), FPL's authorized ROE shall, after an elective filing by FPL, be increased by 20 basis points to be within a range of 9.8% to 11.8% with a mid-point of 10.8% ("Revised Authorized ROE") from the Trigger Effective Date defined below for and through the remainder of the Minimum Term, and for any period in which the Company's rates continue in effect after December 31, 2025, and then, until the Commission

¹ Order No. PSC-2021-0446-S-EI, issued December 2, 2021, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company*, as amended by Order No. PSC-2021-0446A-S-EI, issued December 9, 2021, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

issues a final order in a future proceeding changing the Company's rates and its authorized ROE. Base rates shall not be increased upon implementation of the trigger mechanism. The Trigger shall be calculated by summing the reported 30-year U.S. Treasury bond rates for each day over any continuous six-month period, e.g., January 1, 2022 through July 1, 2022, or March 17, 2022 through September 17, 2022, for which rates are reported, and dividing the resulting sum by the number of reporting days in such period. The effective date of the Revised Authorized ROE ("Trigger Effective Date") shall be the first day of the month following the day in which the Trigger is reached. No later than five business days after the Commission votes to approve this 2021 Agreement, FPL shall notify the Parties of the 30-year United States Treasury Bond yield rate as of the date this Agreement is filed with the Commission by filing in this docket proof of the rate with the Commission Clerk and serving the Parties.

(c) If the Trigger is reached and the Revised Authorized ROE becomes effective, except as otherwise specifically provided in this Agreement, FPL's Revised Authorized ROE range and mid-point shall be used prospectively for all regulatory purposes, including all rates and applications pursuant to this Agreement, until the Commission issues a final order in a future general base rate proceeding changing the Company's rates and its authorized ROE.

On October 27, 2021, FPL filed notice that the 30-year United States Treasury Bond yield rate on August 10, 2021, the date of the 2021 Settlement Agreement, was 1.99 percent.² On August 31, 2022, FPL provided its calculation of the date on which the average 30-year U.S. Treasury Bond yield rate for a period of six (6) consecutive months was at least 50 basis points greater than the yield rate on August 10, 2021.³

Order No. PSC-2022-0327-PCO-EI, issued September 14, 2022, set this docket for administrative hearing on October 4, 2022. The Office of Public Counsel (OPC), Florida Industrial Power Users Group (FIPUG), Florida Retail Federation (FRF), and Southern Alliance for Clean Energy (SACE) are signatories to the 2021 Settlement Agreement. CLEO, the Federal Executive Agencies, Florida Internet & Television Association, Inc., FIPUG, and Walmart, Inc. have requested to be excused from the hearing and have represented that they take no position on FPL's request.

At the October 4, 2022, administrative hearing, opening statements were waived by FPL, OPC, FRF, SACE, FAIR, and LULAC/ECOSWF/Florida Rising. The Larsons gave a brief opening statement. FPL proffered witness Scott Bores, Senior Director of Financial Planning & Analysis, to answer questions regarding FPL's request and its ROE trigger calculations. Exhibit Nos. 1-5 were admitted into the record without objection.

We have jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

² Document No. 12427-2021.

³ Document No. 05885-2022.

DECISION

ROE Trigger

On October 27, 2021, FPL filed a notice advising that the 30-year U.S. Treasury Bond yield rate as of August 10, 2021 was 1.99 percent.⁴ We have reviewed the rates published by the U.S. Department of Treasury and confirmed that the 30-year U.S. Treasury Bond yield rate on August 10, 2021 was 1.99 percent. On August 31, 2022, FPL filed Exhibit No. 4, the daily Treasury par yield curve rates released by the U.S. Department of Treasury for the period February 23, 2022 through August 22, 2022.⁵ We have reviewed the rates published by the U.S. Department of Treasury and confirmed that, by operation of math, the average 30-year U.S. Treasury Bond yield rate for this six-month period is 2.91 percent.

We have also reviewed the 30-year U.S. Treasury yield rates published by the U.S. Treasury Department and confirmed that the ROE Trigger provisions of the 2021 Settlement Agreement have been met. Per Section 3(b) of the 2021 Settlement Agreement, if at any time during the term of the agreement the average 30-year U.S. Treasury Bond yield rate for any period of six consecutive months is at least 50 basis points greater than the yield date on the date the agreement was filed with us (ROE Trigger), FPL's authorized return on equity (ROE) shall, after an elective filing by FPL, be increased by 20 basis points to be within a range of 9.8 percent to 11.8 percent with a midpoint of 10.8 percent.⁶

The average 30-year U.S. Treasury Bond yield rate for the period February 22, 2022 through August 19, 2022 of 2.91 percent is more than 50 basis points greater than the 30-year U.S. Treasury Bond yield rate of 1.99 percent on August 10, 2021, the date the 2021 Settlement Agreement was filed with us. Thus, we have confirmed that the ROE Trigger provisions of the 2021 Settlement Agreement have been met.

Return on equity

Per Section 3(b) of the 2021 Settlement Agreement, if the ROE Trigger is reached, FPL's authorized ROE shall, after an elective filing by FPL, be increased by 20 basis points to be within a range of 9.8 percent to 11.8 percent with a midpoint of 10.8 percent. Section 3(b) also specifies that the effective date of the revised authorized ROE midpoint and range shall be the first day of the month following the day in which the ROE Trigger is reached. Because the ROE Trigger was reached on August 22, 2022, the effective date of the revised authorized ROE midpoint and range is September 1, 2022.

Application of revised ROE

Per Section 3(c) of the 2021 Settlement Agreement, the revised authorized ROE midpoint and range will be used prospectively for all regulatory purposes. However, in the Notice FPL filed on August 23, 2022, the Company stated that it would not reflect the revised authorized ROE in any of the clause recovery factors to be implemented January 2023. Instead, FPL intends to reflect the revised authorized ROE in the clause recovery true-ups that will be filed in

⁴ Document No. 12427-2021.

⁵ Document No. 05885-2022.

⁶ Order No. PSC-2021-0446-S-EI, p.p. 26-27.

2023 and recovered in 2024.⁷ In the same Notice, FPL also stated that it would not increase its rate for AFUDC that would normally be applied to the last four months of 2022. Pursuant to Rule 25-6.0141, F.A.C., FPL will make a separate filing to revise its AFUDC rate to be effective in 2023.

Prior to the commencement of the October 4, 2022, administrative hearing, all of the parties participating in this docket agreed to proposed stipulations on all identified issues as set forth in Attachment A to this order. Based on our analysis above, we find that the stipulations are appropriate and hereby approve them. We note that these are Type 2 stipulations which occur on an issue when the utility and staff, or the utility and at least one party adversarial to the utility, agree on the resolution of the issue and the remaining parties (including staff if they do not join in the agreement) do not object to the Commission relying on the agreed language to resolve that issue in the final order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's request to implement the return on equity trigger provision of its 2021 Settlement Agreement is hereby granted. It is further

ORDERED that FPL's authorized ROE shall be increased by 20 basis points to be within a range of 9.8 percent to 11.8 percent with a midpoint of 10.8 percent effective September 1, 2022. It is further

ORDERED that the revised authorized ROE will not be applied to the clause cost recovery factors to be implemented in January 2023, but will be reflected in clause recovery true-ups that will be filed in 2023 and recovered in 2024. Further, FPL's AFUDC will not be increased for the last four months of 2022. Finally, consistent with Rule 25-6.0141, Florida Administrative Code, FPL will request approval to revise its AFUDC rate to be effective in 2023. It is further

ORDERED that this docket shall remain open pending resolution of the pending Florida Supreme Court appeal.

⁷ Document No. 05610-2022.

By ORDER of the Florida Public Service Commission this 21st day of October, 2022.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

SBr

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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DOCKET NO. 20210015-EI

PROPOSED STIPULATIONS

ISSUE 1: What was the 30-year U. S. Treasury Bond yield rate as of August 10, 2021, the date of the 2021 Settlement Agreement?

Stipulation: The 30-year U.S. Treasury Bond yield rate on August 10, 2021 was 1.99 percent.

ISSUE 2: What is the average 30-year U. S. Treasury Bond yield rate for the six-month period February 22, 2022 through August 19, 2022?

Stipulation: The average 30-year U.S. Treasury Bond yield rate for the period February 22, 2022 through August 19, 2022 is 2.91 percent.

ISSUE 3: Have the conditions stated in Section 3(b) of FPL's Commission-approved 2021 Settlement Agreement been met to implement the agreed upon revision of FPL's authorized ROE?

Stipulation: Yes. FPL has made the elective filing necessary to implement the agreed upon revision to FPL's authorized ROE.

ISSUE 4: If the conditions allowing the agreed upon revision to FPL's authorized ROE pursuant to the Commission-approved 2021 Settlement Agreement have been met, what is the revised authorized ROE range, ROE midpoint, and effective date pursuant to Section 3(b) of the 2021 Settlement Agreement?

Stipulation: Per Section 3(b) of the 2021 Settlement Agreement, FPL's revised authorized ROE is increased by 20 basis points to be within a range of 9.8 to 11.8 percent with a midpoint of 10.8 percent effective September 1, 2022.

ISSUE 5: If the trigger provisions of the 2021 Settlement Agreement are met, to what regulatory mechanisms will the revised authorized ROE range and midpoint be applied?

Stipulation: Section 3(c) of the 2021 Settlement Agreement states that the revised authorized ROE midpoint and range will be used prospectively for all regulatory purposes. However, at FPL's request, the revised authorized ROE will not be applied to the clause cost recovery factors to be implemented in January 2023, but will be

reflected in clause recovery true-ups that will be filed in 2023 and recovered in 2024. Further, FPL has requested that its rate for Allowance for Funds Used During Construction (AFUDC) not be increased for the last four months of 2022. Consistent with Rule 25-6.0141, Florida Administrative Code, FPL will request approval to revise its AFUDC rate to be effective in 2023.

ISSUE 6: Should this docket be closed?

Stipulation: No, this docket is currently on appeal at the Florida Supreme Court and shall remain open pending resolution of the appeal.