Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	)	CC DOCKET NO. 95-95
American Cablesystems of Florida, Ltd., d/b/a Continental Cablevision of Broward County and Continental Cablevision of Jacksonville, Inc.,	)	
Complainants	)	PA 91-0012
v.	)	
Florida Power and Light Company	)	
Respondent	)	

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AMERICAN'S OPPOSITION TO FP&L'S PETITION FOR RECONSIDERATION

American respectfully opposes the petition for reconsideration filed by Florida Power & Light.

After scores of cases and several rulemakings, the Commission announced that the maintenance component to the carrying charges for electric utilities' pole rents would be derived from these publicly available accounts: the numerator FERC Account 593, which is the account containing expenses related to (i) poles, towers and fixtures; (ii) overhead lines; and (iii) services; would be divided by the denominator of the investment in those assets, which are respectively booked in (i) Accounts 364, (ii) 365, and (iii) 369. The computation is

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an approximation, in that the expenses related to poles alone is not isolated. However, by assuming that pole maintenance expense is proportional to the investments in these accounts, the formula derives a reasonable result.

FP&L has for some time sought to tinker with this equation. Initially, it sought to add certain other maintenance expenses to the numerator, but was rejected by the Commission. Teleprompter Corp. v. Florida Power & Light Co., 49 R.R.2d 1484 (1981), PA-81-0017, Mimeo No. 002095 (July 14, 1981), review denied, 54 R.R.2d 1391 (1983), PA-81-0017, Mimeo No. 34089 (December 5, 1983). In this case, it seeks the same result by reducing the denominator, by shaving account 369 down to subaccount 369.1, a position which has been previously rejected in Warner Amex Cable Communications, Inc. v. Arkansas Power & Light Co., PA-82-0019, Mimeo No. 100 (October 11, 1983).

FP&L has tried to defuse one basis for insisting on use of the standard formula by claiming that FP&L's subaccount for 369.1 is publicly available, because it has volunteered the number in its depreciation (but not asset) schedules. But FP&L misses the point. Neither FERC nor Form 1 require the publication of subaccount information. This is the reason that FP&L may gratuitously volunteer selected subaccount without being confronted with the full ratemaking consequences of full subaccount disclosure. The fact that FP&L makes *selected* subaccount information available is no reason to depart from the formula, because it has chosen to present only such information as is suited to its inflationary purpose. Under standard FERC accounting, FP&L also maintains subaccount information for Account 593. Thus, had it suited its purpose, FP&L could have submitted the exact amount of expenses for maintaining poles. The record below (Reply, page 2-7, Attachment B) showed that

comparable information from a similarly situated southern electric utility demonstrated that the maintenance expense associated with poles alone is considerable lower than the share of Account 593 assigned by the Commission's formula in proportion to the asset values of the three asset classes "maintained" by Account 593 FP&L has chosen neither to rebut that record evidence nor to submit its actual pole maintenance expense. The reasonable inference it that it would show the Commission's formula is more than generous.

It is to this record evidence that the Order is clearly making reference when it rightly held in ¶10 that if subaccount 369.1 were used, "we would in fairness to Continental, require Florida Power [& Light] to disaggregate other accounts to eliminate other mismatches between investments and expenses." Indeed, that discussion point is preceded in ¶9 nn. 21-24 with specific citations to the Reply record on which it is based. If FP&L's objection is that ¶10 of the Order failed to repeat the cite to that portion of the Reply pleading, it is surely a hollow objection. But if the Order would be enhanced through repetition, that can surely be remedied in an Order denying reconsideration and repeating the proper citation. In either case there is no basis for rejecting the clear thrust of the Order.

Use of the standard methodology best serves the Congressional charge to develop a methodology to serve as a "best estimate" of disputable carrying costs. S. Rep. No. 580, 95th Cong., 1st Sess. at 128 (1977). It is also the only methodology consistent with full Commission precedent. See, e.g., Teleprompter Corp. v. Alabama Power Co., PA-81-0014, Mimeo 1808 at ¶15 (June 29, 1981), aff'd, Mimeo 33976 at ¶7 (Nov. 3, 1983); Warner Amex v. Florida Power & Light Co., PA-82-0016, Mimeo 4414 at ¶12 (June 8, 1982), aff'd., Mimeo 34089 (Dec. 5, 1983); Teleprompter Corp. v. Tampa Electric Co., 50 R.R.2d 969 (1981),

recon. denied, PA 81-0041, Mimeo 6683 (Sep. 26, 1983); Continental Cablevision of New Hampshire, Inc. v. Public Service Co. of New Hampshire, PA 81-0046, Mimeo 3249 at ¶11 n.8 (Apr. 9, 1982); Panhandle TV and Cable Co., Inc. v. Potomac Edison Co., PA 83-0019, Mimeo 5979 at ¶11 (Aug. 15, 1984).

The Petition for Reconsideration should be denied.

Respectfully submitted,
American Cablesystems of Florida, Ltd., d/b/a
Continental Cablevision of Broward County
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By: _____

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July 18, 1995

CERTIFICATE OF SERVICE

I, Julie P. Gordy, hereby certify that I have this 18th day of July, 1995, caused a copy of the foregoing to be delivered by first class mail, postage pre-paid to the following:

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