

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for)	DOCKET NO. 951167-EI
authorization to increase the)	ORDER NO. PSC-95-1588-FOF-EI
annual storm fund accrual)	ISSUED: December 27, 1995
commencing January 1, 1995 to)	
\$20.3 million; to add)	
approximately \$51.3 million of)	
recoveries for damage due to)	
Hurricane Andrew and the March)	
1993 Storm; and to re-establish)	
the storm reserve for the costs)	
of Hurricane Erin by increasing)	
the storm reserve and charging)	
to expense approximately \$5.3)	
million, by Florida Power &)	
Light Company.)	
)	

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
 J. TERRY DEASON
 JOE GARCIA
 JULIA L. JOHNSON
 DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING APPROVAL FOR INCREASE TO ANNUAL STORM FUND ACCRUAL AND
TREATMENT OF RECOVERIES AND EXPENSES FOR STORM DAMAGE LOSSES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

By Order No. PSC-93-0918-FOF-EI, issued June 17, 1993, the Commission permitted Florida Power & Light Company (FPL or the Company) to implement a self-insurance approach or plan for the costs of repairing and restoring its transmission and distribution (T & D) system in the event of hurricane, storm damage or other natural disaster. FPL also was granted the discretion to

establish a line of credit for storm damage liquidity. In addition, FPL was required to submit a study detailing what it believed to be the appropriate amount that should be accrued annually to the reserve and what costs it intended to charge to the storm fund. Until the appropriate amount was determined, an annual accrual of \$7.1 million, net-of-tax, to the storm fund was set effective June 1, 1993.

By Order No. PSC-95-0264-FOF-EI, issued February 27, 1995, the Commission found the storm damage study submitted by FPL to be adequate. Based upon the study, the Commission allowed FPL to increase its annual storm damage accrual to \$10.1 million, effective January 1, 1994. The storm fund was to continue to be funded on a net-of-tax basis. Further, FPL's request to expense the \$4.5 million cost of Tropical Storm Gordon during 1994, rather than withdrawing it from the storm damage fund, was granted.

On September 28, 1995, FPL filed a petition to increase its annual storm fund accrual to \$20.3 million commencing January 1, 1995; to add approximately \$51.3 million of recoveries for damage due to Hurricane Andrew and the March 1993 Storm, which are not required for system repairs, to the storm reserve and contribute the after tax amount to the storm fund; and to re-establish the storm reserve for the costs of Hurricane Erin by increasing the storm reserve and charging to expense approximately \$5.3 million. In addition, FPL is requesting that funds from the final pending claims attributable to Hurricane Andrew and the March 1993 Storm be added to the reserve and fund. FPL is also requesting that \$6.7 million of insurance proceeds already received be recorded as a liability to cover future costs instead of being added to the storm reserve and fund.

DECISION

As mentioned above, FPL was required to file a storm study report. The report, titled "Transmission and Distribution Insurance Replacement Study," was filed with the Commission on October 1, 1993. FPL's study demonstrated that a self-insurance program has two fundamental characteristics that are interrelated: an annual accrual amount and an emergency relief mechanism to prevent insolvency in the storm fund. The annual accrual needs to be sufficiently low so as to prevent unbounded storm fund growth and yet large enough to reduce reliance upon emergency relief mechanisms in the event of catastrophic weather events.

FPL's study demonstrated that an annual accrual of \$20,300,000 would allow for storm fund growth, decrease reliance on the relief mechanism and provide an adequate level of insurance. The study also indicated that in order to achieve

minimal storm fund growth a \$9,000,000 annual accrual combined with a provision for emergency relief is required. By Order PSC-95-0264-FOF-EI, issued February 27, 1995, the Commission approved an increase in the Company's annual accrual amount to \$10,100,000 effective January 1, 1994.

FPL now is proposing to increase the annual accrual amount to \$20,300,000. In a letter dated November 14, 1995, the Company expanded on its explanation of why it is appropriate to increase the annual accrual at this time. When the \$10,100,000 annual accrual was approved, FPL states it had anticipated that the availability of insurance would improve. Instead, the potential for commercial or other insurance is less now than before. Since the only cost effective measure at this time is self-insurance, an increase in the annual accrual is needed to provide an adequate level of insurance to FPL and its customers.

We agree with FPL and find that a storm damage accrual of \$20,300,000 commencing January 1, 1995 is appropriate.

FPL asserts that of the total insurance recoveries received for damage caused by Hurricane Andrew and the March 1993 Storm, approximately \$51.3 million, will not be required for identified system repairs. FPL wishes to add this amount to its storm reserve and contribute the after tax amount to its storm fund. In addition to the \$51.3 million recovery, there is a final pending claim of approximately \$8 to \$16 million that FPL anticipates will be settled by December 31, 1995. FPL did not specifically address the disposition of this pending claim in its petition.

The \$51.3 million and the funds from the final pending claim result from differences between the negotiated settlement amounts reached with insurance carriers and the costs charged by FPL to the storm work orders for Hurricane Andrew and the March 1993 Storm. Some negotiated issues which contributed to this difference were: (1) recovery of amounts in excess of the net book value for certain assets, primarily materials and supplies inventory, that FPL has now decided will not be replaced; (2) what costs, direct as well as indirect, were to be covered by the insurance contracts; and (3) the amount of future repair costs where the extent of damage is not readily apparent.

We find it appropriate that the \$51.3 million in proceeds already received from Hurricane Andrew and the March 1993 Storm be added to FPL's storm reserve and the after tax amount contributed to the storm fund. Because the final pending damage claim is of the same nature as the \$51.3 million recovery, we find it fitting for this amount to be added in the same manner to the reserve and fund when received.

FPL suffered extensive salt water damage to underground facilities as a result of Hurricane Andrew and the March 1993 Storm. It is the Company's intent to repair these facilities as they fail, or during any normal upgrading of the facilities. Certain of these facilities are expected to fail in the near future. Based on engineering estimates of anticipated future repair costs, an insurance settlement of \$6.7 million was reached. This is a final settlement; if the repairs exceed this amount the Company will not be able to file for additional insurance reimbursement.

It appears from FPL's petition that the Company wishes to establish a separate liability for the \$6.7 million, rather than placing it in the reserve. The \$6.7 million received by the Company represents a settlement of claims for which neither the actual total amount nor the timing of the replacement can be accurately determined. This is exactly the situation a storm reserve is designed to cover. Therefore, we find that this amount shall be added to the reserve and the after tax amount added to the fund. By doing so, the amount can be invested and accrue interest. This will help to mitigate any costs for repairs should they exceed the Company's original estimates. As the repairs are actually completed, the reserve shall be charged for the cost of the repairs.

As a result of Hurricane Erin, which made landfall in FPL's service territory near Vero Beach, Florida on August 1, 1995, FPL experienced approximately \$5.3 million in damage to its T & D system. FPL acknowledges that "these costs are chargeable to the storm reserve and qualify for payment from the storm fund." The Company, however, requests a different treatment. FPL has requested approval to increase the storm reserve and charge to expense the \$5.3 million in costs. The net effect of this accounting treatment is that the loss is expensed and the reserve remains at the higher lever. FPL's proposal has the advantage of maintaining the reserve at the higher level with no increase in rates; but, the purpose of the reserve is to replace insurance that has either become unavailable or cost prohibitive, and to provide for losses to facilities and equipment, not covered by insurance, through storms and similar type hazards.

Previously, by Order No. PSC-95-0264-FOF-EI, issued February 27, 1995, this Commission permitted FPL to expense the \$4.5 million cost of Tropical Storm Gordon rather than withdrawing it from the storm damage reserve. At the time, the storm damage reserve balance was approximately \$93 million and the annual accrual was \$7.1 million. Because we believed that those levels were too low,, we allowed the \$4.5 million cost of Tropical Storm Gordon to be expensed instead of charging the reserve. Thereby, we preserved the existing reserve level.

In this docket, the Company based its request for the \$20.3 million accrual on its original "Transmission and Distribution Insurance Replacement Study of October 1, 1993." In addition to concluding that \$20.3 million was the appropriate accrual amount, the study also concluded that \$109.5 million was an "adequate" reserve balance for 1998. Based upon our decision above to increase the annual accrual to \$20.3 million, it is estimated that by December 31, 1995, FPL's storm reserve will be \$189.3 million. Ordinarily, this balance would be considered sufficiently high so that a \$5.3 million charge would not draw down the reserve balance to an unreasonable level. We, however, recognize that FPL has experienced a catastrophic loss from Hurricane Andrew and that the potential for another loss of this magnitude exists. Although FPL may petition the Commission for emergency relief if FPL experiences a catastrophic loss, we believe that it is reasonable to maintain the reserve at the higher balance for now. Therefore, we approve FPL's request to re-establish the storm reserve and expense the \$5.3 million of losses from Hurricane Erin.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company shall increase its annual storm fund accrual to \$20.3 million commencing January 1, 1995. It is further

ORDERED that the Florida Power & Light Company shall add the \$51.3 million in proceeds already received and any future pending receipts for damage from Hurricane Andrew and the March 1993 Storm to its storm reserve, and contribute the after-tax amount to the storm fund. It is further

ORDERED that Florida Power & Light Company shall add the \$6.7 million insurance settlement for future repair costs to the underground facilities to the storm reserve, and contribute the after-tax amount to the storm fund. It is further

ORDERED that Florida Power & Light Company shall re-establish the storm reserve and charge to expense the approximately \$5.3 million in costs from Hurricane Erin. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDER NO. PSC-95-1588-FOF-EI
DOCKET NO. 951167-EI
PAGE 6

ORDERED that in the event this Order becomes final, this Docket should be closed.

By ORDER of the Florida Public Service Commission, this 27th day of December, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: /s/ Kay Flynn
Chief, Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-904-413-6770.

(S E A L)
SLE

Commissioner Kiesling dissented on the issue of expensing costs of Hurricane Erin.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 17, 1996.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

ORDER NO. PSC-95-1588-FOF-EI
DOCKET NO. 951167-EI
PAGE 7

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.