

State of Florida



Public Service Commission

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COMMISSION CLERK

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DATE: October 7, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (JEB, Sum, WBM, WAK, NAK, RLT, 100)
Office of the General Counsel (C. Keating)

RE: Docket No. 040449-EI – Request for exclusion under Rule 25-6.0455(3), F.A.C., for outages on April 13, 2004 resulting from weather system known as a "Mesoscale Convective System," by Florida Power & Light Company.

AGENDA: 10/19/04 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\040449.RCM.DOC

Case Background

On May 13, 2004, Florida Power & Light Company ("FPL" or "Company") filed a petition pursuant to Rule 25-6.0455(3), Florida Administrative Code, seeking to exclude from its 2004 Annual Distribution Service Reliability Report the service interruptions that occurred on April 13, 2004, due to a weather-related event.

Rule 25-6.0455, Florida Administrative Code, requires each investor-owned electric utility to file an Annual Distribution Service Reliability Report containing data that the Commission uses to assess changes in distribution reliability. Under subsection (2) of the rule, a utility may exclude specified outage events, such as a storm named by the National Hurricane Center, a tornado recorded by the National Weather Service, ice on lines, and an extreme weather event causing activation of the county emergency operation center. In addition, under subsection (3), a utility may petition the Commission to exclude an outage event not specifically enumerated in subsection (2). However, the utility must "demonstrate that the outage was not

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within the utility's control, and that the utility could not reasonably have prevented the outage" Rule 25-6.0455(3), Florida Administrative Code.

Section 366.05(1), Florida Statutes, gives the Commission the power to prescribe standards of quality and measurements for public utilities. Further, Section 366.041(1), Florida Statutes, provides that the Commission, in setting rates for a public utility, is authorized to consider, among other things, the adequacy of service rendered. Hence, whether an outage event is included or not included in measuring FPL's electric distribution reliability may have material consequences for the utility and its ratepayers in a future rate proceeding. No specific rate action is currently associated with approval or denial of this petition.

The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes, including Sections 366.04, 366.041, and 366.05, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve FPL's petition to exclude from its 2004 Annual Distribution Service Reliability Report 114,935 customer interruptions that occurred on April 13, 2004, due to a weather-related event?

Recommendation: Yes. FPL has demonstrated that the outages due to the April 13, 2004, weather event were not within its control and that it could not reasonably have prevented the outages. FPL should file its 2004 Annual Distribution Service Reliability Report with and without the requested exclusion. (BREMAN, MATLOCK, C. KEATING)

Staff Analysis: FPL seeks exclusion for weather-related service interruptions that occurred on April 13, 2004. April 13, 2004, was the second day of inclement weather associated with a large weather system traveling west to east across parts of peninsular Florida. An unusual wind event followed the passing thunderstorms with gusts reaching 70 miles per hour in portions of south-central Florida. FPL recorded the first customer service interruption at 12:04 a.m. The subsequent customer interruptions totaled 114,935 in FPL's south-central service areas. FPL's response to the level of outages included a request for assistance from other utilities; deployment of 950 line personnel (both FPL and non-FPL), 500 vegetation management personnel, and 90 support personnel; and extending normal working hours up to 16 hour shifts. FPL restored service to the last affected customer on April 14, 2004, at 12:57 p.m. FPL's estimated total cost to restore service is approximately \$1.1 million, excluding fixed costs and payroll expenses.

FPL's petition includes three reports by the National Weather Service ("NWS") which are specific to the April 13, 2004, weather event. The first NWS report, "April 13, 2004, Peninsular Florida Severe Wind Event," describes the meteorological characteristics of the wind event as more typical of weather that occurs in the Great Plains and other Southern states. The second NWS report, "Preliminary Local Storm Report," provides a chronology of non-thunderstorm wind damage reported for the greater Miami and Tampa Bay areas. The final NWS report, "Storm Data and Unusual Weather Phenomena," discusses an estimated \$300,000 property damage due to high winds throughout Lee County and sustained winds in excess of 30 knots (34.5 miles per hour).

FPL asserts that weather events similar to the one on April 13, 2004, are infrequent and occur once in twenty-five years. However, FPL was unable to provide historical data for Florida supporting its assertion. FPL's response to discovery further indicates that a Florida-specific analysis is not available and would take months to complete. Consequently, the expected frequency of similar weather events in peninsular Florida is uncertain. Furthermore, outage data due to similar weather events, if any, has been historically included in FPL's Annual Distribution Service Reliability Reports; this petition is FPL's first request to exclude outages due to a weather event not specifically provided for by 25-6.0455, Florida Administrative Code.

FPL maintains that it could not reasonably be expected to avoid outages caused by the large scale weather event of April 13, 2004, that was similar in size and scope to a named tropical storm. Outages due to named tropical storms are specifically excluded pursuant to 25-6.055(2), Florida Administrative Code. Thus, FPL maintains that it could not reasonably be expected to avoid outages caused by comparable large scale weather events.

FPL also believes its effort to restore service supports its comparison of the April 13, 2004, weather event with that of a named tropical storm. When a named tropical storm occurs, FPL mobilizes and reallocates its workforce and asks for assistance from other utilities. FPL did so in response to the April 13, 2004, weather event. FPL's restoration efforts across its entire service area reduced service interruptions from all causes to 8,275, which is 2,000-5,000 less than the total level of service interruptions recorded three days before and three days after the weather event. Consequently, FPL believes its service restoration efforts were reasonable and its petition should be granted.

Staff's review indicates that two customers filed outage complaints on April 13, 2004. However, FPL promptly addressed each complaint to the customer's satisfaction and follow-up by Commission staff was not required.

Staff notes that the Commission has stated its policy concerning petitions for exclusion of outages due to weather events in Order No. PSC-03-1008-PAA-EI, issued September 8, 2003, in Docket No. 030270-EI, In re: Request for exclusion under Rule 25-6.0455(3), F.A.C., concerning outage events associated with storm on 2/22/03, by Gulf Power Company at page 4:

We are also concerned with the potential for inconsistent requests for exclusions under subsection (3) of the rule. Certainly, for Annual Distribution Service Reliability Reports to provide the basis for meaningful analysis of reliability trends and comparisons to peers, consistency is necessary among a particular utility's excluded outage events and among various utilities' excluded outage events. Thus, in order to maintain a consistent quality of data, we will consider, when addressing future exclusion requests under subsection (3) of the rule, the consistency of such exclusions with prior exclusion requests by the utility and other utilities, as well as whether the outage event to be excluded is unique in comparison to outage events which have historically not been excluded from the utility's Annual Distribution Service Reliability Reports.

Gulf shall file its 2003 Annual Distribution Service Reliability Report with and without the exclusions granted herein to enable assessment of trends in Gulf's distribution reliability indices.

Staff believes FPL's instant petition is similar to Gulf's petition in Docket No. 030270-EI. In both cases the weather events were sufficiently severe to cause high levels of damage across large geographical areas and appear unique in comparison to outage events that have historically not been excluded from the utilities' Annual Distribution Service Reliability Reports. In both cases, the utilities provided evidence that reasonable service restoration actions had been taken. Staff believes FPL has demonstrated that the resulting outages were not within its control and it could not reasonably have prevented the outages. Thus, Staff recommends approval of FPL's petition. Consistent with Order No. PSC-03-1008-PAA-EI, FPL should be required to file its 2004 Annual Distribution Service Reliability Report with and without the exclusion to enable assessment of trends in FPL's distribution reliability indices.

Conclusion

The weather event on April 13, 2004, caused widespread customer outages. The damages caused by the weather event required FPL to respond on a system-wide basis comparable to FPL's response to a named tropical storm event. FPL has shown its restoration efforts were thorough. FPL has shown that the storm event was unusual. Consequently, FPL has demonstrated that the resulting outages were not within its control and that it could not reasonably have prevented the outages. FPL has also shown that the weather event is unique in comparison to outage events which have historically not been excluded. Thus, the Commission should grant FPL's petition. FPL's should file its 2004 Annual Distribution Service Reliability Report with and without the requested exclusion consistent with Order No. PSC-03-1008-PAA-EI.

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Issue 2: Should this docket be closed?

Recommendation: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. (C. KEATING)

Staff Analysis: If no timely protest to the proposed agency action is filed within 21 days, this docket should be closed upon the issuance of a Consummating Order.