

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for approval to establish as regulatory asset any costs charged to Account No. 228.1 in excess of Storm Reserve, by Florida Power & Light Company.

DOCKET NO. 041057-EI
ORDER NO. PSC-04-0976-PAA-EI
ISSUED: October 8, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITION FOR APPROVAL TO
ESTABLISH AS REGULATORY ASSET COSTS
CHARGED IN EXCESS OF STORM RESERVE

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.

On September 9, 2004, Florida Power & Light Company (FPL) filed a petition for approval to establish as a regulatory asset any costs charged to Account No. 228.1 in excess of Storm Reserve. FPL has requested that it be authorized to establish a regulatory asset for storm damage costs that exceed the \$345 million balance of the Storm Reserve. The costs to repair and restore FPL's system for the damages caused by Hurricane Charley and Hurricane Frances are expected to exceed the reserve balance. FPL is also seeking current authorization for the future recovery of reasonable and prudently incurred storm damage costs in excess of its Storm Reserve.

We have jurisdiction over this matter pursuant to Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06, Florida Statutes.

FPL filed its petition in anticipation that the uninsured damages from Hurricane Charley and Hurricane Frances will exceed its current Storm Reserve balance of approximately \$345 million. FPL's petition seeks our approval to establish a regulatory asset, presumably in Account No. 182.1, Extraordinary Property Losses, for an unknown amount of excess storm damage costs and without any specific proposal concerning the amortization of the regulatory asset. Per the

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FPSC-COMMISSION CLERK

Uniform System of Accounts prescribed by Rule 25-6.014, Florida Administrative Code, a request to establish such a regulatory asset in Account No. 182.1 must be accompanied by a statement giving a complete explanation with respect to the items which it is proposed to include in the regulatory asset, the period over which, and the accounts to which it is proposed to write off the charges, and other pertinent information. Nor can Account No. 182.3, Other Regulatory Assets, be utilized in this instance. The use of Account No. 182.3 is restricted to deferring costs that would have been included in net income determinations in the current period.

Pursuant to Rule 25-6.0143(4)(b), Florida Administrative Code, entitled "Use of Accumulated Provision Accounts 228.1, 228.2 and 228.4, charges are to be made to the accumulated account regardless of the balance in the account. We have recognized that there could be times when the reserve could have a negative balance in Order No. PSC-96-0023-FOF-EI, issued January 8, 1996, in Docket No. 951433-EI, In Re: Petition for approval of special accounting treatment of expenditures related to Hurricane Erin and Hurricane Opal by Gulf Power Company. Because all of the charges are made to the accumulated reserve regardless of the balance, FPL's expenses, and hence net income, are unaffected by the storm damage costs that exceed the storm reserve balance. In other words, this treatment defers the negative balance for recovery in future periods through the normal storm reserve accrual and/or an alternative recovery mechanism. It is unnecessary to create a separate regulatory asset to do this because allowing a negative balance to be recorded in the Storm Reserve (Account No. 228.1) serves the same purpose and is contemplated by Rule 25-6.0143, Florida Administrative Code. The recovery of prudently incurred storm restoration costs was approved in the Gulf Power Company case.

While one disposition of any excess storm damage costs could be the establishment, and subsequent amortization, of a regulatory asset, we find that FPL's current request is unnecessary, premature, and does not meet the required criteria to establish such a regulatory asset. In accordance with our prior treatment of expenses related to individual utility self-insurance mechanisms, we retain the right to review FPL's charges to the Storm Reserve, at any time, for reasonableness and prudence and to disallow any that are found to be inappropriate. We make our decision herein with the understanding that FPL will continue booking amounts consistent with its current accounting practice, subject to our review and approval, in the event that a subsequent petition for recovery of storm-related damages is filed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's petition is hereby denied, as set forth in the body of this Order. It is further

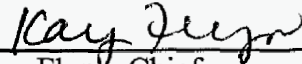
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ORDERED that if no person whose substantial interests are affected by the Commission's Proposed Agency Action timely files a protest within 21 days of the issuance of the Order from this recommendation, this docket shall be closed upon issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 8th day of October, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

JSB

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 29, 2004.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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