ORIGINAL

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Subject: Citizens' Prehearing Statement (Docket No. 041291-EI)
Attachments: FPL storm docket Preh Statement 3-28-05 clean.doc

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1. This filing is intended for a filing date of March 28, 2005.

2. This filing is to be made in Docket Number: 041291-EI, Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company

3. Attached for filing on behalf of Office of Public Counsel is Citizens' Prehearing Statement.

4. There are a total of seventeen (17) pages for filing.

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm Reserve balance, by Florida Power & Light Company /	Docket No. 041291-EI Filed: March 28, 2005

CITIZENS' PREHEARING STATEMENT

The Office of Public Counsel, on behalf of the Citizens of the State of Florida, hereby files this Prehearing Statement in the above docket.

APPEARANCES:

PATRICIA A. CHRISTENSEN, ESQUIRE
Associate Public Counsel
JOSEPH A. MCGLOTHLIN, ESQUIRE
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida

(1) WITNESSES:

The Citizens intend to call the following witnesses, who will address the issues indicated:

NAME	ISSUES
James A. Rothschild	20
Michael J. Majoros	2,4,5,8,9,12,13,14,19,21

(2) EXHIBITS:

Through Mr. Rothschild, the Citizens intend to introduce the following schedules, which can be identified on a composite basis:

JAR-1	Eastern electric utilities and their earned rates of return
JAR-2*	Appendix A—List of prior appearances

Through Mr. Majoros, the Citizens intend to introduce the following schedules, which can be identified on a composite basis:

ID No.	Subject
MJM-1	Summary of FPL's basic estimates
MJM-2	Estimate of cost of removal reserve
MJM-3	FPL's answer to OPC Interrogatory 27 (re treatment of payroll)
MJM-4	Uncompleted project—salt spray and vegetation study
MJM-5	Payroll charged to storm reserve
MJM-6	Breakdown of vehicle expense
MJM-7	Summary of recommended adjustments (amended)
MJM-8	Return on equity worksheet
MJM-9*	Appendix—witness qualifications

(3) STATEMENT OF BASIC POSITION:

A. *FPL has overstated costs to be charged to the storm damage reserve.* The storm damage reserve should be limited to those extraordinary costs that are incremental to the expenditures the utility would make if there had been no storms. Instead, FPL has booked to the storm reserve all costs of the restoration efforts, including costs that should be capitalized and other costs that it has already collected through base rates. FPL bases its proposal on its "1993 study." There, FPL justified booking all costs to the reserve on the grounds that the method was consistent with the manner in which "replacement cost insurance" claims are processed. FPL asserted that an accounting methodology based on the insurance practice would obviate the necessity of maintaining separate accounting records for insurance and regulatory purposes. However, FPL currently has no such insurance. When the "replacement cost" bill is presented to customers instead of an insurance company, the approach results in "double dipping" of O&M costs and costs of

* JAR-2 and JMJ-9, appendices containing the witnesses' background, were attached to the prefiled testimony but were not labeled as exhibits at the time.

removal that have already been collected through base rates, as well as the inappropriate expensing of plant items that should be capitalized and depreciated over their useful lives. To correct inappropriate booking of costs to the storm damage reserve, the Commission should require FPL to remove $134.8 million from the storm damage reserve and book the appropriate amounts to plant in service, cost of removal reserve, and appropriate O&M accounts. This requirement does not mean that FPL has not or will not recover these costs; only that they have been or will be recovered through the appropriate mechanisms (i.e. depreciation expense, existing base rates).

B. *FPL should be required to recover some of the negative balance in the storm damage reserve through earnings.* The central issue in this case is not whether FPL will be permitted to recover the 2004 storm-related costs reflected in the negative balance of the storm reserve. Instead, the issue is whether the Commission will require FPL to recover some of those costs by applying earnings to eliminate a portion of the negative balance in the storm reserve rather than eliminating it exclusively with incremental revenues collected from customers through a new surcharge to base rates. In either event, FPL will have fully "recovered its costs."

By attempting to collect 100% of the costs through a surcharge, thereby insulating its earnings from the effect of the storms, FPL has failed to adhere to the terms of a 2002 stipulation, which requires FPL to absorb expenses associated with storm damages until its return on equity is reduced to 10% before it seeks to increase rates. A reference in the 2002 stipulation to FPL's ability to petition the Commission for recovery of storm costs does not alter this conclusion, because the reference cannot be divorced from the separate, *unqualified* provision that requires FPL to absorb unusual costs until its ROE has fallen to 10%.

However, even if the Commission decides the terms of the stipulation do not require this result, the 10% ROE criterion nonetheless is an appropriate basis on which to quantify the amount of 2004 storm related costs for which FPL should be responsible. For the following reasons, the Commission should not grant FPL's petition in the form it was presented. First, it is certain that, by approving an agreement stating that FPL has the procedural ability to file a petition, the Commission did not prejudge the manner in which it would assess and rule upon the merits of such a petition. Over time, the Commission has stated clearly that, upon receipt of a petition related to a negative storm reserve balance, it may direct the utility to defer, amortize, or recover the related costs. The Commission has also rejected FPL's efforts to exact a guarantee that it will be insulated from the effects of storm costs. The instant case is simply another example of a request by FPL that ratepayers be required to indemnify the company for storm costs. The Commission did not give away its discretion to tailor a result that fits the circumstances fairly when it approved a provision that says merely that FPL may file a petition.

Further, as OPC's witness will testify, ratepayers compensate investors for the risks of their investment by providing, through the rates they pay, a return that is commensurate with those risks. It would be inequitable and unfair to require customers

to compensate investors fully for assuming business risks, which in Florida include the potential for hurricane damage, and the0n place on customers 100% of the burden of storm damages through an approach that insulates investors from the risk they are paid to accept. Again, a return on equity of 10%0 is more than adequate to provide a reasonable return on shareholders' investment under prevailing economic conditions.

Accordingly, then, whether to enforce the 2002 stipulation or whether—independent of the stipulation--to allocate storm costs fairly and equitably between ratepayers and stockholders, the Commission should require FPL to absorb storm-related costs to the extent required to reduce its ROE to 10% based on 2004 results. Based on available information for 2004, the Commission should require FPL to absorb approximately $108 million through retail earnings rather than through a surcharge to base rates.

Without conceding such concerns are warranted, to allay any concerns expressed by FPL regarding the impact on financial indicators if it were to expense this amount in one year, OPC does not object to a provision in the final order permitting FPL to defer and amortize the expense over a period of two or three years, provided that FPL does not attempt to incorporate the unamortized costs into a calculation of revenue requirements to be borne by customers during that time frame.

ISSUE 1: What is the legal effect, if any, of FPL's 1993 storm cost study and Order No. PSC-95-0264-FOF-EI entered in Docket No. 930045-EI on the decisions to be made in this docket? (OPC 13)

OPC: FPL's 1993 study and Order No. PSC-95-0264-FOF-EI are not legally dispositive of the accounting methodology that the Commission should require FPL to apply to 2004 storm costs. In the order, the Commission characterized the study as "adequate," then immediately stated its interest in opening a rulemaking proceeding for the purpose of considering the adoption of uniform guidelines for the storm accounting of all utilities. In context, then, it is clear that the Commission did not regard its order as having a permanent effect on future proceedings. Further, in the study FPL justified its "total restoration cost" approach largely on the proposition that, because FPL expected it would continue to have insurance on transmission and distribution in place, an approach that mirrored the manner in which "replacement cost" insurance policies and claims work would simplify the storm accounting and eliminate administrative burdens by avoiding the necessity of maintaining separate accounting records for insurance and regulatory purposes. As FPL no longer has T&D insurance, the premise on which the Commission based its review at the time is no longer valid. Applied to circumstances in which FPL wants to deliver the bill to customers, not an insurance

company, the approach has the effect of requiring customers to pay the same costs twice.

Further, because (consistent with the Commission rule that permits utilities to defer catastrophic storm costs) FPL has not yet recognized the 2004 expenses for purposes of its financial statements, there is nothing "ex post" about applying the more appropriate accounting methodology to the 2004 storm-related costs.

Finally, the 1993 study and order, on the one hand, and the different proposal advanced by OPC in this docket, on the other, involve only the determination of which costs are properly charged to the storm damage reserve. They have no bearing on the separate issue regarding whether, once the amount to be charged to the storm damage reserve has been determined, the Commission should require FPL to absorb some of those costs through corporate earnings achieved through base rates instead of through a surcharge to customers.

ISSUE 2: Is the methodology in Order No. PSC-95-0264-FOF-EI, issued in Docket No. 930405-EI, for booking costs to the Storm Damage Reserve the appropriate methodology to be used in this docket? (NEW STAFF ISSUE)

OPC: No. The storm damage reserve should be limited to extraordinary costs that are incremental to the amounts that FPL would have spent on the replacement plant, cost of removal, and O&M in the absence of the storms. Instead, FPL wants to book to the storm damage reserve, and collect from customers immediately, costs of capital investments that are more appropriately placed in rate base and recovered over the lives of the plant. FPL also wants to book to the storm reserve all of the costs it incurred when removing the damaged plant, even though it has been collecting (through depreciation rates) the normal costs of removing the damaged plant through base rates since the plant was installed. The normal, current cost of replacing plant (labor and materials) should be booked to plant in service and recovered through depreciation expense over time. The normal cost of removing damaged plant should be removed from the storm account and charged to the reserve established and maintained specifically for that purpose. This approach does not "penalize" FPL. It does not prevent FPL from *recovering* any of these costs. As to the normal cost of replacement plant, the effect is no different than other plant items—including very large ones—that FPL has placed in rate base and "carried" through existing rates until its next revenue requirements case. As to cost of removal, over time FPL has been collecting revenues earmarked for that purpose through the depreciation rates that are built into base rates; to allow FPL to book "normal cost of

removal" to the storm damage reserve would be to permit double recovery.

In fact, when implementing its "total restoration cost" approach FPL actually calculates the "normal" replacement plant costs and "normal" cost of removal expense, and even makes entries to plant in service and accumulated depreciation that are consistent with OPC's position. However, as an additional step in the accounting methodology FPL then reduces both plant in service and accumulated depreciation to "pre-storm" values and charges the amounts of these reductions to the storm damage reserve through an additional accounting entry it labels "contribution in aid of construction." Therefore, to convert FPL's accounting mechanism to the "incremental and extraordinary" concept for plant and cost of removal advocated by OPC, the Commission has only to require FPL to reverse these inappropriate "CIAC" entries.

Finally, with respect to labor, vehicle costs, and other O&M, FPL has charged the storm damage reserve for all such costs, even though it would have incurred a normal level of related O&M in these categories even if there had been no storms. This has the effect of requiring customers to pay the same costs twice.

ISSUE 3: Were the costs that FPL has booked to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993, by the Company in Docket No. 930405-EI? (FPL 4)

OPC: In its 1993 study FPL advocated the "total restoration cost" approach, which OPC assumes is the subject of this issue. OPC notes that FPL accomplishes its "total restoration cost" accounting, in part, by first identifying the "normal" cost of the replacement plant and the "normal" cost of removal expense and recording those amounts in plant in service and accumulated depreciation, respectively—just as OPC would have it do. FPL then records to plant in service and accumulated depreciation entries it labels "contribution in aid of construction" that are designed to reduce those accounts to pre-storm levels. FPL "pays" for these adjusting entries by charging the amounts of the "contributions in aid of construction" to the storm damage reserve, thereby increasing the extent to which the balance becomes negative as a result of the 2004 restoration activities. This accounting treatment is inconsistent with the 1993 study in the following significant respect. In the study, FPL assumed the reduction of accounts to "prestorm levels" would be paid by insurance proceeds; the study showed no "CIAC" charged to the storm damage reserve.

ISSUE 4: Has FPL quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve? If not, what adjustments should be made? (OPC 1; FPL 6)

OPC: No. Consistent with the principle that FPL should charge to the storm damage reserve only incremental and extraordinary costs, the Commission should require FPL to remove $10,906,236 of non-management employee labor payroll expense from the amount charged to the storm reserve because it is already included in the budgeted amounts supported by base rates.

ISSUE 5: Has FPL properly treated payroll expense associated with managerial employees when determining the costs that should be charged to the storm reserve? If not, what adjustments should be made? (OPC 2; FPL 6)

OPC: No. The Commission should require FPL to remove $18,300,983 of managerial payroll expense from the amount that FPL charged to the storm reserve.

ISSUE 6: At what point in time should FPL stop charging costs related to the 2004 storm season to the storm damage reserve? (OPC 3)

OPC: FPL should stop charging amounts related to the 2004 storm season to the storm damage reserve after foreign utilities have departed, FPL employees are no longer working overtime hours beyond the level normally expected, and the contractors that FPL employs routinely are working at a normal rate.

ISSUE 7: Has FPL charged to the storm reserve appropriate amounts relating to employee training for storm restoration work? If not, what adjustments should be made? (OPC 4)

OPC: Employee training, including training for storm-related activities, is a normal function for which customers should not be required to bear charges through the storm damage reserve.

ISSUE 8: Has FPL properly quantified the costs of tree trimming that should be charged to the storm reserve? If not, what adjustments should be made? (OPC 5)

OPC: No. The Commission should disallow $4,220,000 from the amount that FPL charged to the storm damage reserve.

ISSUE 9: Has FPL properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve? If not, what adjustments should be made? (OPC 6; STAFF 11)

OPC: No. FPL would have incurred the fixed costs and normal operating costs of its vehicles in any event. The amount charged to the storm reserve should be limited to one half the fuel cost charged to the storm, reflecting the additional shifts during which the vehicles were operated. $5,261,887.

ISSUE 10: Has FPL properly determined the costs of call center activities that should be charged to the storm damage reserve? If not, what adjustments should be made? (OPC 7)

OPC: No position at this time.

ISSUE 11: Has FPL appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the storms? If not, what adjustments should be made? (OPC 8)

OPC: $1,700.000.

ISSUE 12: Has uncollectible expense been appropriately charged to the storm damage reserve? If not, what adjustments should be made? (OPC 9)

OPC: The storm damage reserve properly is limited to the incremental and extraordinary costs of restoring service and repairing the physical system following storm events. Uncollectible expense, which consists of money owed to the company that the company writes off, does not fall into that category. Further, whether uncollectible expense can be attributed to the storm is speculative. It is inappropriate to charge any portion of uncollectible expense to the storm damage reserve.

ISSUE 13: Of the costs that FPL has charged or proposes to charge to the storm reserve, should any portion(s) instead be booked as capital costs associated with its retirement (including cost of removal) and replacement of plant items affected by the 2004 storms? If so, what adjustments should be made? (OPC 10)

OPC: Yes. FPL booked all such costs to the storm damage reserve. Costs of labor and materials incurred to install plant are capital investments, and normally should be placed in rate base. The storm damage reserve should be used only for extraordinary increments of costs caused by storm conditions. FPL should be required to book the normal cost of

replacements to plant in service. FPL estimates this amount to be $58,000,000. The Commission should require FPL to provide the final value after all costs have been booked.

FPL's depreciation rates include a component through which FPL collects from customers the cost of removing plant over its life. Of the cost of removing damaged plant incurred during 2004 restoration activities, FPL should be required to book the "normal" amount to the reserve in which amounts collected for the purpose reside; only the extraordinary increment should be booked to the storm damage reserve. FPL estimates the "normal" amount to be $36,400,000. Again, FPL should be required to provide the final amount for purposes of the adjustment after it has completed booking all costs.

ISSUE 14: Has FPL appropriately quantified the costs of materials and supplies used during storm restoration that should be charged to the storm reserve? If not, what adjustments should be made? (OPC 11)

OPC: FPL should charge only the costs of the materials and supplies used during restoration activities to the storm reserve. It should not charge the costs of replenishing supplies and inventories to the reserve.

ISSUE 15: If the Commission does not apply the methodology applied by FPL for charging expenses to the storm reserve pursuant to the study filed on October 1, 1993 by the Company and addressed by the Commission in Order No. PSC-95-0264-FOF-EI in Docket No. 930405-EI, in this docket, should the Commission take into account:

a. Lost revenues due to the impact of the 2004 storm season

OPC: No. The storm damage reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system. "Lost revenues" are not *costs* at all, and labeling them as such does not make them so.

Further, in this case OPC advocates measuring the amount of costs associated with the negative balance in the storm damage reserve that FPL should absorb through earnings by applying 10% ROE as the criterion. If FPL had realized greater revenues, its earnings subject to this calculation would have been greater, and FPL would have been assigned a larger portion of the negative balance to be recovered through earnings. Accordingly, by adopting the 10% ROE criterion the Commission will have effectively taken FPL's claim of "lost revenues" into account; because FPL's earnings are lower than they would have been had it not

"lost revenues," the amount it will absorb through earnings is also commensurately lower.

b. Overtime incurred by Company personnel in work areas not directly affected by the storm due to loss of some personnel to storm assignments (backfill work);

OPC: Only if the Commission first requires FPL to remove regular payroll costs from the storm reserve should it consider this category of overtime. The burden is on FPL to demonstrate and document that there was such overtime, and that it was caused directly by loss of personnel to storm assignments.

c. Costs associated with work which must be postponed due to the urgency of the storm restoration and accomplished after the restoration was completed (catch-up work):

OPC: Only if the Commission first requires FPL to remove regular, normal payroll costs from the storm reserve should it consider a claim for "catch-up" work. Further, given the degree to which FPL will have modified its entire transmission and distribution system during restoration, the burden is on FPL to demonstrate that (a) specific catch-up work exists after the modifications, replacements and improvements, and (b) such work cannot be performed, as a result of the budgeting and scheduling processes, by employees during regular hours or by contractors during the normal amount of budgeted contract work.

d. Uncollectible accounts receivable write-offs directly related to the storms

OPC: The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system. Uncollectible accounts receivable, consisting of money owed to FPL that FPL decides to write off, are not *costs,* and labeling them as such does not make them so. Further, the amount of uncollectibles "directly related to the storms" would be speculative, as would be the determination of those that will never be collected at some point in the future, through collection efforts, suits, etc. Finally, this item is duplicative of both "uncollectible expense" and "lost revenues," both of which FPL has identified above and neither of which is properly charged to the storm damage reserve.

e. Incremental contractor, outside professional services and temporary labor costs due to work postponed due to the urgency of the storm restoration and accomplished after the restoration was completed.

OPC: Like (d) above, item "e" appears to be duplicative of at least one other of the list of claims that FPL says it wants the Commission to consider if it rejects FPL's "total restoration cost" approach. See (c) above for OPC's position on item "e".

ISSUE 16: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of storm-related costs to be charged against the storm damage reserve? (OPC 12; STAFF 8)

OPC: Approximately $398.2 million.

ISSUE 17: Were the costs FPL has booked to the storm reserve reasonable and prudently incurred? (FPL 1)

OPC: OPC objects to the inclusion of this issue. As is the case with any case involving a multitude of individual expenditures, to the extent the parties or the Commission believes a cost was not reasonable or prudently incurred, an individual issue will be framed. It is inappropriate to include a "blanket" issue addressing "reasonableness and prudence" in this circumstance.

ISSUE 18: Is FPL's objective of safe and rapid restoration of electric service following tropical storms and hurricanes appropriate? (FPL 2)

OPC: OPC objects to the inclusion of this issue. OPC could as well ask, "Is OPC's objective of vigorously protecting customers' interests appropriate?" If OPC's counterpart question were to elicit a laudatory response, it nonetheless would be meaningless in terms of resolving matters at issue in the docket. The same is true of FPL's self-serving question.

Furthermore, the issue is framed as a statement of position. More neutrally, the issue would be, "Following tropical storms and hurricanes, what should be the objective of FPL?"

In addition, the "issue" as framed implies that FPL is assuming a discretionary burden by establishing as its objective the safe and rapid restoration of service that, absent some approval in this docket, it would not otherwise undertake. The notion is nonsensical. FPL is the monopoly provider of an essential service. The "issue" could as easily be framed in terms of its statutory obligations.

The only way FPL makes money is by selling electricity. When customers have no electric service, FPL receives no revenues. Therefore, it is as much in FPL's interest as it is in customers' interests for FPL to undertake to restore service rapidly and safely.

Finally, OPC notes that in its recently filed revenue requirements case FPL has requested a "bonus." The proposed issue appears to OPC to relate to FPL's quest for a reward in that docket. It would be inappropriate to establish in this docket an "issue" that does not bear on any decision the Commission must make, but could possibly be connected to an attempt by FPL to increase revenue requirements in its pending rate case.

For these reasons, OPC asserts "Issue 18" is not an issue, and should not be included as such.

ISSUE 19: Does the stipulation of the parties that the Commission approved in Order No. PSC-02-0501-AS-EI affect the amount or timing of storm-related costs that FPL can collect from customers through the proposed surcharge? If so, what is the impact? (OPC 14; STAFF 1)

OPC: Yes. The stipulation requires FPL to absorb storm-related expenses through earnings until its ROE is reduced to 10% before modifying rates. This equates to $270,512,000 that FPL should be required to absorb through earnings.

ISSUE 20: In the event that the Commission determines the stipulation approved in Order No. PSC-02-0501-AS-EI does not affect the amount of costs that FPL can recover from ratepayers, should the responsibility for those costs be apportioned between FPL and retail ratepayers? If so, how should the costs be apportioned? (OPC 15)

OPC: Yes. Investors are paid to take risks. It would be unfair to compensate investors for the risks they take, then insulate them from those risks by placing 100% of the 2004 storm costs on customers. Even if the Commission determines the 2002 stipulation does not govern the disposition of FPL's petition, the Commission correctly has stated in past orders that FPL is not immune from all risk of storm losses. The Commission also has indicated that it will not require a utility to earn less than a fair rate of return as a result of catastrophic storm losses. Because a return on equity of 10% is more than adequate to enable FPL to earn a reasonable rate of return, the Commission should identify the 2004 earnings above 10% ROE as the amount of costs associated with the negative balance in the storm reserve that FPL should recover by the application of corporate earnings to reduce the negative balance rather

than a surcharge on customers' bills. In its discretion, in order to allay any concerns expressed by FPL regarding the impact on FPL's financial viability associated with expensing these costs in a single year, the Commission can authorize FPL to defer the costs and amortize them over a period of two or three years. However, FPL should not be allowed to roll unamortized costs into the revenue requirements borne by base rates in the pending rate case.

ISSUE 21: What is the appropriate amount of storm-related costs to be recovered from the customers? (OPC 16; STAFF 9)

OPC: $128,000,000.

ISSUE 22: If recovery is allowed, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery? (OPC 17; STAFF 12)

OPC: The negative balance should be maintained in a separate subaccount, so as to segregate it from the positive balance resulting from future accruals.

ISSUE 23: Should FPL be authorized to accrue and collect interest on the amount of storm-related costs permitted to be recovered from customers? If so, how should it be calculated? (OPC 18)

OPC: OPC does not object to an interest factor equivalent to the 30 day commercial paper rate. The interest factor should not begin until the Commission's decision becomes effective, and should apply only to the amount of costs that the Commission authorizes FPL to collect from customers through a surcharge on base rates.

ISSUE 24: Should FPL be required to normalize the tax impacts associated with 2004 tax losses that will be recovered over time through year end 2007? If so, what adjustment should be made? (OPC 19)

OPC: No position at this time.

ISSUE 25: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes? (OPC 21; STAFF 4)

OPC: No position at this time.

ISSUE 26: What is the appropriate recovery period? (OPC 23; STAFF 3)

OPC: The appropriate period is a function of the amount authorized to be recovered and the interest factor, as each has an impact on customers. The Commission should prescribe a period that takes both impacts into account.

ISSUE 27: If the Commission approves a storm cost recovery surcharge, should the approved surcharge factors be adjusted annually to reflect actual sales and revenues? (STAFF 5)

OPC: Yes.

ISSUE 28: If the Commission approves a mechanism for the recovery of storm-related costs from the ratepayers, on what date should it become effective? (OPC 24; STAFF 6)

OPC: Thirty days after the Commission's vote, to be applied to bills during the following billing cycle.

ISSUE 29: What is the appropriate disposition of the revenue collected as an interim storm cost recovery surcharge? (NEW STAFF ISSUE)

OPC: If the Commission authorizes FPL to collect an amount that is less than that collected through the provisional measure, the differential should be refunded to customers with interest.

ISSUE 30: Would revenues collected through the proposed surcharge be included for purposes of performing any potential retail base rate revenue refund calculation under the Stipulation and Settlement approved by Commission Order PSC-02-0501-AS-EI in Docket 001148-EI? (NEW FPL ISSUE)

OPC: OPC asserts this should not be identified as an issue in this docket. If and when FPL proposes to implement a "sharing" of revenues, parties will have an opportunity to object; it is not raised by FPL's petition in this docket.

If, notwithstanding OPC's position, the Commission decides to include this as an issue, OPC's position is that there is no language in the stipulation that can be read to exclude any base rate revenues from the sharing formula; rather, the plain language of the stipulation includes all base revenues in the sharing equation.

ISSUE 31: Should the docket be closed? (OPC 26)

OPC: No. The docket should remain open pending verification of actual costs.

(7) STIPULATED ISSUES:

The Citizens are not aware of any stipulated issues at this time.

(8) PENDING MOTIONS

The Citizens intend to seek leave to submit supplemental testimony of Michael J. Majoros.

(9) PENDING CONFIDENTIALITY CLAIMS OR REQUESTS

The Citizens are not aware of any confidentiality claims at this time.

(10) COMPLIANCE WITH ORDER NOS. PSC-04-1150-PCO-EI and PSC-05-0283-PCO-EI

The Citizens believe they are in compliance with the requirements of Order Nos. PSC-04-1150-PCO-EI and PSC-05-0283-PCO-EI.

K. OBJECTIONS TO WITNESS'S QUALIFICATIONS

To the extent that opinion testimony has been offered in prefiled testimony, OPC makes no objection to the qualifications of the witness to render that opinion, (except to the extent that some witnesses appear to be offering legal opinions).

Respectfully submitted,

HAROLD MCLEAN
PUBLIC COUNSEL

s/ Joseph A. McGlothlin
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Attorneys for the Citizens of the
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Citizens' Prehearing Statement has been furnished by e-mail and U.S. Mail this 28th day of March, 2005, to the following:

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