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041172-EI

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October 1, 2004

HAND DELIVERED

Ms. Blanca S. Bayo, Director
Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED FPSC
OCT - 1 AM 9:33
COMMISSION
CLERK

Re: Tampa Electric Company's Petition for Declaratory Statement

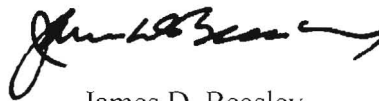
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Tampa Electric Company's Petition for Declaratory Statement.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



James D. Beasley

JDB/pp
Enclosure

RECEIVED & FILED



FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

10574 OCT-1 3

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Tampa Electric Company's)
Petition for Declaratory Statement.)
_____)

DOCKET NO. _____

FILED: October 1, 2004

**TAMPA ELECTRIC COMPANY'S
PETITION FOR DECLARATORY STATEMENT**

Tampa Electric Company ("Tampa Electric" or "the company") pursuant to Section 120.565, Florida Statutes, and Chapter 28-105, Florida Administrative Code, hereby petitions the Commission for a declaratory statement regarding the appropriate accounting treatment for Tampa Electric to follow in order to record and recover prudently incurred storm damage costs that exceed the company's storm reserve balance and, in support thereof, says:

1. Tampa Electric is a Florida corporation whose principle offices are located at 702 North Franklin Street, Tampa, Florida 33601. The company is an investor-owned electric utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes.

2. The representatives of the company who receive notices and pleadings in this docket are:

Angela L. Llewellyn
Supervisor, Regulatory Coordination
Tampa Electric Company
Post Office Box 111
Tampa, FL 33602
(813) 228-4111
(813) 228-1770 (fax)

Lee L. Willis
James D. Beasley
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115
(850) 222-7952 (fax)

3. The statutory provisions, agency rules and agency orders on which a declaratory statement is sought include Sections 366.04, 366.05 and 366.06, Florida Statutes; Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code; Order No. PSC-96-0023-FOF-EI,

DOCUMENT NUMBER-DATE

10574 OCT-13

FPSC-COMMISSION CLERK

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, and the Commission's recent rulings on September 21, 2004 in Dockets Nos. 041085-EI, In re: Petition for approval to establish regulatory asset for costs in excess of Storm Damage Reserve Fund, by Progress Energy Florida, Inc. and Docket No. 041057-EI, In re: Petition for approval to establish as regulatory asset any costs charged to Account Nom 228.1 in excess of Storm Reserve, by Florida Power & Light Company.

4. Tampa Electric is not aware of any disputed issues of material fact relating to the declaratory relief sought in this petition.

Background

5. Pursuant to prior Commission orders and consistent with Rule 25-6.0143, Florida Administrative Code, Tampa Electric has established a storm and property insurance reserve ("Storm Damage Reserve") Account No. 228.1, Accumulated Provision for Property Insurance, which is intended to provide the reserve necessary to cover the costs of repair and restoration caused by damage from storms. As of August 31, 2004 the balance in Tampa Electric's Storm Damage Reserve was approximately \$42.7 million.

6. Tampa Electric's system has sustained extensive damage from Hurricanes Charley, Frances and Jeanne during August and September of this year. Preliminary cost estimates for electric service restoration following Hurricanes Charley and Frances exceed \$30 million in the aggregate. The preliminary estimates for storm preparation and restoration following Hurricane Jeanne are not yet known. However, the total cost of damage from all three storms are expected to exceed Tampa Electric's Storm Damage Reserve.

7. Hurricane Charley came ashore on August 13, 2004 in the Ft. Myers/Sanibel Island, Florida area south of Tampa. This hurricane significantly impacted Tampa Electric's electric service infrastructure in Polk County, particularly in the Winter Haven area. This storm caused approximately 78,000 electric service outages within Tampa Electric's service area with the cost of storm preparation and restoration estimated to be approximately \$10 million.

8. Hurricane Frances came ashore on September 4, 2004 near Stuart, Florida. This very large, slow moving storm had a significant impact throughout Tampa Electric's service territory. Approximately 268,000 of Tampa Electric's customers were without service at the peak of the storm. The total storm related costs as a direct result of Hurricane Frances is estimated to be approximately \$20 million.

9. Hurricane Jeanne came ashore on September 26, 2004 near Stuart, Florida, following a very similar path as Hurricane Frances. The impact of this storm was felt throughout Tampa Electric's service territory with significant structural damage in the eastern regions and tree and limb related outages in the western regions of the company's service area. Hurricane Jeanne caused storm related outages to approximately 285,000 customers served by Tampa Electric.

10. At this time Tampa Electric cannot estimate with certainty the total storm related costs associated with Hurricanes Charley, Frances and Jeanne, or predict what additional costs might be incurred in connection with additional storms that may strike the company's service territory during the remainder of the 2004 hurricane season. However, it is very clear that storm damage thus far in the 2004 hurricane season will cause the company to incur storm preparation and restoration costs that exceed the Storm Damage Reserve the company had accrued prior to

the unrelenting hurricane landfalls that have occurred in Florida during the 2004 hurricane season.

11. All of the investor-owned electric utilities and their customers in this state have felt the devastating impact of this hurricane season. Tampa Electric has reviewed the petitions filed on behalf of Florida Power & Light Company (“FPL”) and Progress Energy Florida, Inc. (“PEF”) seeking current authorization for the future recovery of reasonable and prudently incurred storm damage costs in excess of their respective storm damage reserves, and the Commission’s disposition of those petitions.

12. The FPL and PEF petitions were considered by the Commission at its September 21, 2004 Agenda Conference. There the Commission voted to approve with modifications to the Staff’s recommendations. As reflected in the vote sheets attached hereto as Exhibit “A” the Commission concluded that the two petitions should be denied as being unnecessary and premature in that the utility should record prudently incurred storm damage costs in Account No. 228.1, accumulated provision for property insurance, as required by Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code. The Commission further concluded that after the actual amounts of the costs or reasonable estimates subject to true-up are known, FPL and PEF may then file petitions seeking an alternative accounting treatment for recovery of prudently incurred storm damage costs that exceed their storm damage reserve balances. The two petitions were denied with the understanding that the companies will continue to book amounts consistent with current accounting practice, which will be subject to Commission review and approval when their petitions are subsequently filed.

13. The Staff’s recommendations in the FPL and PEF dockets refer to the Commission’s decision in Order No. PSC-96-0023-FOF-EI, issued January 8, 1996 in Docket

No. 951443-EI, In re: Petition for approval of special accounting treatment of expenditures relating to Hurricane Erin and Hurricane Opal by Gulf Power Company. There the Commission recognized that there could be times when the storm reserve could have a negative balance. In their recommendations the Staff reasoned that because all of the charges are made to the accumulated reserve regardless of the balance, the utility'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. The Staff concluded that 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 as is contemplated by Rule 25-6.0143, Florida Administrative Code. Thus, the recovery of prudently incurred storm preparation and restoration costs was approved in the Gulf Power Company case.

14. The above-referenced statutes, rules and orders of the Commission may substantially affect Tampa Electric in its particular set of circumstances depending upon whether the same storm damage accounting practices and cost recovery process approved for FPL and PEF at the Commission's September 21, 2004 Agenda Conference also apply in the case of Tampa Electric.

Declaratory Relief Requested

15. Tampa Electric's uncertainty regarding the appropriate accounting practices and storm damage cost recovery principles in the wake of Hurricanes Charley, Frances and Jeanne can be alleviated by a declaratory statement by the Commission as follows:

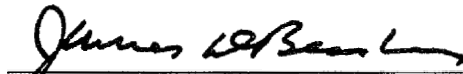
Tampa Electric should record prudently incurred storm damage costs in Account No. 228.1, accumulated provision for property insurance, as required by Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code. After the actual amount of the costs

or a reasonable estimate subject to true-up is known, Tampa Electric may then file a petition seeking an alternative accounting treatment for recovery of prudently incurred storm damage costs that exceed its storm damage reserve balance. Thus, Tampa Electric should continue booking amounts consistent with current accounting practice, which will be subject to Commission review and approval when its petition is filed. This result is intended to be consistent with that approved for FPL and PEF addressing the 2004 hurricane related costs that are expected to exceed their reserve balances.

WHEREFORE, Tampa Electric Company respectfully requests the Commission issue a declaratory statement substantially as set forth above and thereby alleviate Tampa Electric's uncertainty as to the appropriate accounting procedures and cost recovery principles that should apply with respect to the unprecedented storm damage costs the company has incurred and continues to incur during the 2004 hurricane season.

DATED this 15th day of October 2004.

Respectfully submitted,



LEE L. WILLIS
JAMES D. BEASLEY
Ausley & McMullen
Post Office Box 391
Tallahassee, FL 32302
(850) 224-9115

ATTORNEYS FOR TAMPA ELECTRIC COMPANY

EXHIBIT "A"

FLORIDA PUBLIC SERVICE COMMISSION

18A

VOTE SHEET

SEPTEMBER 21, 2004

RE: Docket No. 041057-EI - 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.

Issue 1: Should the Commission approve Florida Power & Light Company's (FPL) petition to establish a regulatory asset for storm damage costs in excess of its storm reserve?

Recommendation: No. The petition should be denied because it is both unnecessary and premature. FPL should record prudently incurred storm damage costs in Account No. 228.1, Accumulated Provision for Property Insurance, as required by Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code. After the actual amount of the costs is known, FPL may then file a petition seeking an alternative accounting treatment for recovery of prudently incurred storm damage costs that exceed the Storm Reserve balance.

MODIFIED

Approved with the understanding that the company will continue booking amounts consistent with current accounting practice, which will be subject to Commission review and approval when its petition is filed.

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Charles M. Dief

Maule

J. James

Rudy Bradley

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

10187 SEP 21 04

VOTE SHEET

SEPTEMBER 21, 2004

Docket No. 041057-EI - 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.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Yes. 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 should be closed upon issuance of a Consummating Order.

APPROVED

FLORIDA PUBLIC SERVICE COMMISSION

18B

VOTE SHEET

SEPTEMBER 21, 2004

RE: Docket No. 041085-EI - Petition for approval to establish regulatory asset for costs in excess of Storm Damage Reserve Fund, by Progress Energy Florida, Inc.

Issue 1: Should the Commission approve Progress Energy Florida, Inc.'s (PEF) petition to establish a regulatory asset for storm damage costs in excess of its storm reserve?

Recommendation: No. The petition should be denied because it is both unnecessary and premature. PEF should record prudently incurred storm damage costs in Account No. 228.1, Accumulated Provision for Property Insurance, as required by Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code. After the actual amount of the costs is known, PEF may then file a petition seeking an alternative accounting treatment for recovery of prudently incurred storm damage costs that exceed the Storm Reserve balance.

MODIFIED

Approved with the understanding that the company will continue booking amounts consistent with current accounting practice, which will be subject to Commission review and approval when its petition is filed.

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures in the majority column:

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

10188 SEP 21 04

FPSC-COMMISSION CLERK

VOTE SHEET

SEPTEMBER 21, 2004

Docket No. 041085-EI - Petition for approval to establish regulatory asset for costs in excess of Storm Damage Reserve Fund, by Progress Energy Florida, Inc.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Yes. 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 should be closed upon issuance of a Consummating Order.

APPROVED