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March 17, 2005

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Blanca Bayo, Director
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Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

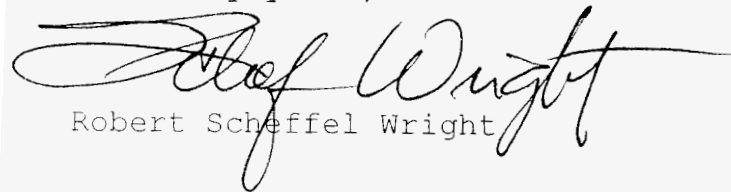
Re: Petition of Florida Power & Light Company for Approval of
Storm Cost Recovery Charges, Docket No. 041291-EI

Dear Ms. Bayo:


Enclosed for filing are the original and fifteen copies each of the Florida Retail Federation's Petition to Intervene in the above-styled docket. Also enclosed is a 3.5" diskette with the FRF's Petition to Intervene in WordPerfect format. I will appreciate your confirming receipt of this filing by stamping the attached copy thereof and returning same to my attention.

As always, my thanks to you and to your professional Staff for their kind and courteous assistance. If you have any questions, please give me a call at (850)681-0311.

Cordially yours,


Robert Scheffel Wright

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for Authority to Recover)
Prudently Incurred Storm Restoration)
Related to 2004 Storm Season That Exceed) DOCKET NO. 041291-EI
Storm Reserve Balance, by Florida Power) FILED: MARCH 17, 2005
& Light Company)

THE FLORIDA RETAIL FEDERATION'S PETITION TO INTERVENE

The Florida Retail Federation ("FRF"), pursuant to Chapter 120, Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code ("F.A.C."), and by and through its undersigned counsel, hereby petitions to intervene in the above-styled docket. In summary, the FRF is an established association with more than 10,000 members in Florida, many of whom are retail customers of Florida Power & Light Company ("FPL"). The interests of the many members of the FRF who are FPL customers will be directly affected by the Commission's decisions in this case, and accordingly, the FRF is entitled to intervene to protect its members' substantial interests. In further support of its Petition to Intervene, the FRF states as follows.

1. The name, address, and telephone number of the Petitioner are as follows

Florida Retail Federation
100 East Jefferson Street
Tallahassee, Florida 32301
Telephone (850) 222-4082
Telecopier (850) 226-4082.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright, Attorney at Law
John T. LaVia, III, Attorney at Law
Landers & Parsons, P.A.
310 West College Avenue (ZIP 32301)
Post Office Box 271
Tallahassee, Florida 32302
(850) 681-0311 Telephone
(850) 224-5595 Facsimile.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. The Florida Retail Federation is an established association of more than 10,000 members engaged in retail businesses in Florida. Many of the FRF's members are retail electric customers of FPL; these members purchase electricity from FPL pursuant to several different FPL rate schedules. The FRF's members require adequate, reasonably-priced electricity in order to conduct their businesses consistently with the needs of their customers and ownership.

5. Statement of Affected Interests. In this docket, the Commission will decide whether to approve FPL's request to implement "Storm Cost Recovery Charges" that FPL alleges are necessary to enable FPL to recover approximately \$533 million (jurisdictional) in costs that FPL alleges are related to its efforts to restore electric service following the hurricanes that struck Florida in 2004. The Commission will necessarily have to

decide whether to approve such Storm Charges at all, and if so, at what levels. The Commission must also decide how to treat FPL's request in light of the Commission's over-arching duty to ensure that FPL's rates are, in their totality, fair, just, reasonable, and not unduly discriminatory. In this instance, this means that the Commission will have to render decisions regarding the interplay and interrelationships between FPL's requested "Storm Charges" and FPL's base rates, which were established pursuant to a Stipulation and Settlement entered into in FPL's last rate case, which Stipulation was approved by the Commission and incorporated into Commission Order No. PSC-02-0501-AS-EI (the "FPL Rate Case Order"). FPL seeks to circumvent the Rate Case Order by requesting the creation of a guaranteed cost recovery clause for reimbursement of storm-related costs that are properly -- and that the Commission has always treated as -- base rate costs, thereby improperly "sheltering" its earnings under the base rates that it agreed to in the FPL Rate Case Order, to the direct detriment of its customers. As a signatory to the Stipulation and Settlement and as the representative of its members' interests in having the Rate Case Order properly enforced, the Florida Retail Federation's and its members' substantial interests will be affected by any action that the Commission takes in this docket.

6. The FRF's substantial interests are of sufficient immediacy to entitle it to participate in the proceeding and are

the type of interests that the proceeding is designed to protect. To participate as a party in this proceeding, an intervenor must demonstrate that its substantial interests will be affected by the proceeding. Specifically, the intervenor must demonstrate that it will suffer a sufficiently immediate injury in fact that is of the type the proceeding is designed to protect. Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla. 1997); Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981), rev. denied, 415 So. 2d 1359 (Fla. 1982). Here, the FRF is the representative of a large number of its more than 10,000 members who are retail electric customers of FPL, and these members' substantial interests will be directly affected by the Commission's decisions regarding FPL's retail electric rates. Thus, the interests that the FRF seeks to protect are of sufficient immediacy to warrant intervention, and the nature of its members' interests in having the Commission's protection against rates that are unjust, unfair, or unreasonable is exactly the type of interest that this proceeding is designed to protect.

7. Associational Standing. Under Florida law, to establish standing as an association representing its members' substantial interests, an association such as the Florida Retail Federation must demonstrate three things:

- a. that a substantial number of its members, although not necessarily a majority, are substantially affected by the agency's decisions;

b. that the intervention by the association is within the association's general scope of interest and activity;
and

c. that the relief requested is of a type appropriate for an association to obtain on behalf of its members.

Florida Home Builders Ass'n v. Dep't of Labor and Employment

Security, 412 So. 2d 351, 353-54 (Fla. 1982). The FRF satisfies

all of these "associational standing" requirements. A

substantial number of the FRF's more than 10,000 members are

located in FPL's service area and receive their electric service

from FPL, for which they are charged FPL's applicable retail

rates. The FRF exists to represent its members' interests in a

number of venues, including the Florida Public Service

Commission: indeed, the FRF was an intervenor in FPL's last

general rate case and a signatory to the Stipulation and

Settlement that resolved the issues in that docket. Finally, the

relief requested -- intervention and the lowest rates consistent

with the Commission's governing law -- is across-the-board relief

that will apply to all of the FRF's members in the same way,

according to the retail rate schedules under which they receive

service; therefore, the requested relief is of the type that is

appropriate for an association to obtain on behalf of its

members.

8. Disputed Issues of Material Fact. The FRF has obtained and reviewed a draft list of issues that the existing parties to

this docket have developed. Having reviewed that list, the FRF believes that the disputed issues of material fact in this proceeding will include, but will not necessarily be limited to, the following. (For convenience, the FRF here uses the same numeration system as that in the draft issues list that the other parties have been working from.)

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. 930405-EI on the decisions to be made in this docket?

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? If not, what is the appropriate methodology?

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?

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?

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?

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

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?

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?

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?

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?

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?

ISSUE 12: Has uncollectible expense been appropriately charged to

the storm damage reserve? If not, what adjustments should be made?

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?

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?

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; or
- b. Other potential offsetting impacts.

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?

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

ISSUE 18: Is FPL's objective of safe and rapid restoration of electric service following tropical storms and hurricanes appropriate? (The FRF believes that this is a biased, self-serving issue and accordingly objects to it.)

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?

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?

ISSUE 21: What is the appropriate amount of storm-related costs to be recovered from the customers?

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?

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?

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?

ISSUE 25: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes?

ISSUE 26: If the Commission approves recovery of any storm-related costs, what is the appropriate recovery period?

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?

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?

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

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?

ISSUE 31: Should the docket be closed?

The FRF also proposes the following additional issue:

NEW FRF ISSUE 32: If the Commission agrees that it is obliged to ensure that FPL's rates and charges, considered in their entirety and totality, are fair, just, reasonable, and not unduly discriminatory, how should it implement this principle in relation to FPL's proposed Storm Charges and in relation to FPL's base rates, whether in this proceeding or in Docket No. 050045-EI, In Re: Petition for a Rate Increase by Florida Power & Light Company?

The FRF reserves all rights to raise additional issues in accordance with the Commission's rules and the Order Establishing Procedure in this case.

9. Disputed Legal Issues. The FRF believes that Issues 1, 19, and 30 above are legal issues. In addition, the FRF believes that the following is an appropriate legal issue to be decided in this docket.

- a. Is the Commission obliged to ensure that FPL's rates and charges, considered in their entirety and totality,

are fair, just, reasonable, and not unduly discriminatory?

10. Statement of Ultimate Facts Alleged. FPL is attempting to circumvent the Stipulation and Settlement and thereby to shelter excessive earnings, for the benefit of its stockholders and to the detriment of its captive retail customers, by means of its proposed Storm Charges. FPL's proposed Storm Charges would enable FPL to recover costs that it is not properly entitled to recover. If FPL's Storm Charges were approved as requested by FPL, the totality of FPL's rates and charges would be so high as to be unfair, unjust, and unreasonable. At the most, the Commission should approve Storm Charges for FPL at a level that would enable FPL to earn, for 2004 and 2005, a rate of return on equity of 10.0 percent, which is what FPL agreed to in the Stipulation and Settlement that was approved through Order No. PSC-02-0501-AS-EI. It is FPL's burden to prove that it is entitled to any rate relief, and to prove that requirement, FPL must prove that the totality of its rates and charges, without the requested Storm Charges, are not fair, just, and reasonable. Any rate recovery allowed by the Commission must, at a minimum, be based upon a determination that any storm recovery costs claimed by FPL were reasonable and prudent, and must, at a minimum, exclude (without limitation): (a) all normal operating and replacement costs, (b) all FPL "regular" labor time, (c) all budgeted FPL overtime, and (d) all budgeted contract expenses.

Any cost recovery allowed by the Commission must also include appropriate credits or offsets for removal costs and for other applicable items. Moreover, after all of the above-stated exclusions are taken into account, FPL is only entitled to recover an amount sufficient to provide it with an opportunity to earn a rate of return on equity of 10.0 percent for 2004 and 2005, because that is the threshold rate that FPL agreed to in the 2002 Stipulation and Settlement. Any greater recovery would allow FPL to collect rates that are unfairly, unjustly, and unreasonably high, and would provide FPL with a windfall to the detriment of its customers. The amount that it would be appropriate for FPL to recover, if any, consistent with the foregoing, will be determined by the evidence of record in this case.

11. Statutes and Rules That Entitle the Florida Retail Federation to Relief. The applicable statutes and rules that entitle the FRF to relief include, but are not limited to, Sections 120.569, 120.57(1), 366.04(1), 366.05(1), 366.06(1)&(2), and 366.07, Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

12. Statement Explaining How the Facts Alleged By the Florida Retail Federation Relate to the Above-Cited Rules and Statutes In Compliance With Section 120.54(5)(b)4.f, Florida Statutes. Rules 25-22.039 and 28-106.205, F.A.C., provide that persons whose substantial interests are subject to determination

in, or may be affected through, an agency proceeding are entitled to intervene in such proceeding. A substantial number of the FRF's members are FPL's retail customers, and accordingly, their substantial interests are subject to determination in and will be affected by the Commission's decisions in this docket.

Accordingly, as the representative association of its members who are FPL customers, the FRF is entitled to intervene herein. The above-cited sections of Chapter 366 relate to the Commission's jurisdiction over FPL's rates and the Commission's statutory mandate to ensure that FPL's rates are fair, just, and reasonable. The facts alleged here by the FRF demonstrate (a) that the Commission's decisions herein will have a significant impact on FPL's rates and charges, (b) that a substantial number of the FRF's members will be directly impacted by the Commission's decisions regarding FPL's rates and charges, and (c) accordingly, that these statutes provide the basis for the relief requested by the FRF herein.

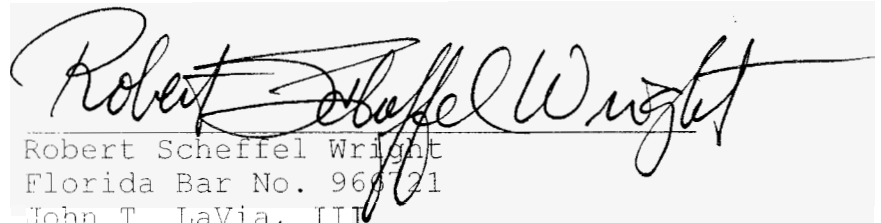
CONCLUSION AND RELIEF REQUESTED

The Florida Retail Federation is an established association that, consistent with its purposes and history of intervening in Commission proceedings to protect its members' interests under the Commission's statutes, rules, and orders, seeks to intervene in this docket to protect its members' substantial interests in having the Commission enforce its orders and set rates for

Florida Power & Light Company that are, considered in their entirety and totality, fair, just, and reasonable. The interests of the FRF's members that the FRF seeks to protect via its intervention and participation in this case are immediate and of the type to be protected by this proceeding.

WHEREFORE, the Florida Retail Federation respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the FRF's representatives indicated in paragraph 2 above.

Respectfully submitted this 17th day of March, 2005.



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Attorneys for the Florida
Retail Federation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Mail, hand delivery (*) or facsimile and U.S. Mail (**) on this 17th day of March, 2005, on the following:

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Katherine Fleming, Esq.
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Florida Public Service Commission
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Tallahassee, FL 32399-0850

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