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From: Tim Perry [tperry@mac-law.com]
Sent: Monday, March 28, 2005 4:36 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 041291-EI
Attachments: Prehearing Statement - 3-28-05.doc; Prehearing Statement - 3-28-05.pdf

- 1. Timothy J. Perry, McWhirter Reeves, 117 S. Gadsden Street, Tallahassee, FL 32301, (850) 222-2525, tperry@mac-law.com is responsible for this electronic filing;
2. The filing is to be made in Docket No. 041291-EI, In re: 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. The filing is made on behalf of the Florida Industrial Power Users Group;
4. The total number of pages is 9; and
5. Attached to this e-mail in Adobe and Word* format is The Florida Industrial Power Users Group's Prehearing Statement.

* In lieu of filing a disk containing FIPUG's Prehearing Statement in word processing format, FIPUG has attached a copy of its Prehearing Statement in Word format to this e-mail. If you have any questions, please give me a call.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's
Petition for Authority to Recover
Prudently Incurred Storm Restoration
Costs Related to the 2004 Storm Season
That Exceed the Storm Reserve Balance

Docket No: 041291-EI
Filed: March 28, 2005

**THE FLORIDA INDUSTRIAL POWER USERS GROUP'S
PREHEARING STATEMENT**

The Florida Industrial Power Users Group (FIPUG), pursuant to Order No. PSC-04-1150-PCO-EI as modified by Order No. PSC-05-0823-PCO-EI, hereby files its Prehearing Statement.

A. APPEARANCES:

JOHN W. MCWHIRTER, JR., McWhirter, Reeves, Davidson & Arnold, P.A., 400 North Tampa Street, Suite 2450, Tampa, Florida 33601, and
TIMOTHY J. PERRY, McWhirter, Reeves, Davidson & Arnold, P.A., 117 South Gadsden Street, Tallahassee, Florida 32301.

On Behalf of the Florida Industrial Power Users Group.

B. WITNESSES:

None.

C. EXHIBITS:

None. However, FIPUG reserves the right to introduce exhibits during cross-examination.

D. STATEMENT OF BASIC POSITION:

FPL's petition gives new meaning to the term "self insurance plan." Unlike typical insurance plans where risks and costs are shared between insurer and insured, FPL's proposal places the entire burden of storm-related expenses on its customers while completely insulating itself from all risk associated with storm damage. FPL's plan seeks an insurance windfall by shifting normal O&M to the storm damage reserve—thus converting those monies to profits—and taking a storm casualty deduction that reduces FPL's taxes during the storm year with no benefit to FPL's customers.

FIPUG recommends a sharing of the risk of storm damage. FIPUG agrees that a cost

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recovery surcharge independent of base rates is an appropriate mechanism for the collection of FPL's storm damage deficit after the customer's appropriate share of the deficit is determined. The deficit is calculated by removing normal operating expenses from alleged storm costs, then removing an appropriate amount of capital costs for inclusion in the rate base rather than the surcharge. Once the deficit is determined, FPL should be allowed to recover from customers all net-of-tax storm damage costs that cause FPL's return on equity to fall below 10% during the recovery period. The surcharge should terminate as soon as the storm damage balance is recovered.

This methodology is in keeping with the 2002 rate case Settlement and Stipulation approved by the Commission in which FPL agreed to assume a revenue decline until its return on equity fell to 10%. Under the FIPUG recommended methodology it is estimated that customers will pay a surcharge of \$225 million in addition to the \$354 they previously contributed to the storm reserve. This approach will result in a fair and equitable resolution of the issues. Customers will pay approximately 65% of \$890 million in storm costs, provide a return on the capital portion of the cost and pay all interest on FPL's short-term borrowings. FPL's 35% share of the risk will still enable it to earn the after tax return on equity of 10% for 2004.

E. STATEMENT OF ISSUES AND POSITIONS:

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?

FIPUG: The 1993 study and Order No. PSC-95-0264-FOF-EI are not dispositive of the issues regarding the manner in which FPL should account for the storm-related costs in this proceeding. In addition, the Order did not prejudice cost recovery from FPL's ratepayers under the storm damage reserve.

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 that should be used?

FIPUG: No. FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: No position.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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

FIPUG: FPL should stop charging such costs to the storm damage reserve effective January 1, 2005, or at the conclusion of storm restoration activities, whichever is sooner. Such costs should not exceed \$890 million.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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?

FIPUG: Yes. FIPUG adopts the OPC's findings with respect to cost of removal and recommends that an appropriate amount of the remaining storm asset restoration cost be applied to the depreciation reserve rather than to the storm reserve. The storm damage deficit surcharge should be reduced accordingly. FIPUG demands that FPL provide proof of the appropriate amount of storm damage cost to be capitalized.

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?

FIPUG: FPL should provide proof that it is seeking recovery only for incremental materials and supplies required to restore its system.

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

- b. Other potential offsetting impacts
- 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);
- d. Uncollectible accounts receivable write-offs directly related to the storms; and
- 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.

FIPUG: No, unless the losses cause return on equity to fall below 10%.

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?

FIPUG: The appropriate amounts of costs are those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

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

FIPUG: FIPUG demands strict proof.

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

FIPUG: FPL is applauded for its efforts; however, this burden—assumed in return for its retail monopoly—is not relevant to storm cost recovery.

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?

FIPUG: Yes. FPL should be limited to recovering only such costs that would reduce its after-tax return on equity for 2004 to 10%. The remainder could be recovered through a surcharge with interest.

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?

FIPUG: Yes. FPL should be limited to recovering only such costs that would reduce its after-tax return on equity for 2004 to 10%. The remainder could be recovered through a surcharge with interest. Such an apportionment would fairly allocate the costs to ensure that FPL earns a fair rate of return while absorbing the costs of the hurricanes that FPL incurred as a normal business operating risk in Florida.

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

FIPUG: Approximately \$225 million, in addition to the \$354 million already collected from customers through the storm reserve.

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?

FIPUG: The storm damage account should be credited each month with the actual amount recovered from ratepayers.

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?

FIPUG: Yes. FPL should be allowed to charge interest at the commercial paper rate.

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?

FIPUG: Same position as OPC.

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

FIPUG: The costs should be allocated to the rate classes as recommended by FPL in its petition.

ISSUE 26: What is the appropriate recovery period?

FIPUG: No more than three years, depending on the amount FPL is authorized to collect.

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?

FIPUG: Yes, provided that the total recovery of storm restoration costs through the

proposed surcharge is limited to \$890 million less capital costs, the storm damage reserve and such adjustments as the Commission approves. FPL agreed to a maximum storm damage cost as a condition to the opportunity to amend its petition and file supplemental testimony.

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?

FIPUG: PEF should be allowed to begin recovering such costs from the final date of the Commission's order in this docket, with recovery beginning on the first billing cycle of the next month.

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

FIPUG: The storm damage account should be credited each month with the actual amount recovered from ratepayers.

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?

FIPUG: All revenues collected over the revenue threshold set forth in Order PSC-02-0501-AS-EI and the Stipulation and Settlement should be applied to storm damage cost, and revenue sharing should only take place after such storm damage costs are recovered.

ISSUE 31: Should the docket be closed?

FIPUG: Yes, as soon as possible.

s/ Timothy J. Perry

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CERTIFICATE OF SERVICE

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

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