

ORIGINAL

Matilda Sanders

From: Mike Twomey [miketwomey@talstar.com]
Sent: Tuesday, March 29, 2005 2:53 PM
To: Filings@psc.state.fl.us
Cc: Ken Hoffman; John McWhirter; Robert Scheffel Wright; CHRISTENSEN.PATTY; Joseph McGlothlin; John Butler; Natalie Futch-Smith; Wade Litchfield; Katherine Fleming; Cochran Keating; Tim Perry
Subject: Electronic filing in Docket No. 041291 - FPL Storm Cost Recovery Case
Attachments: AARP petition to intervene in FPL storm case March 28, 2005.doc

1. Michael B. Twomey, Post Office Box 5256, Tallahassee, Florida 32314-5256, (850) 421-9530, miketwomey@talstar.com is responsible for this electronic filing;

2. The filing is to be made in Docket No. 041291-EI,

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;

3. The filing is made on behalf of AARP;

4. The total number of pages is 5; and

5. Attached to this email in Word format is AARP Petition to Intervene.

Michael B. Twomey

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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 29, 2005

AARP PETITION TO INTERVENE

Pursuant to Sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.039, and 28-106.205, Florida Administrative Code, the AARP, through its undersigned attorney, files its Petition to Intervene, and in support thereof, states as follows:

1. The name and address of the affected agency is:

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

2. The name and address of the petitioner is:

AARP
200 West College Street
Tallahassee, Florida 32301

3. All pleadings, motions, orders and other documents directed to the petitioner

should be served on:

Michael B. Twomey
Post Office Box 5256
Tallahassee, Florida 32314-5256
Phone: (850) 421-9530
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4. Florida Power and Light Company ("FPL") is a regulated electric utility serving approximately 4.2 million retail customers throughout portions of the State of Florida.

5. AARP is a nonprofit membership organization dedicated to addressing the needs and interests of persons 50 and older. AARP has staffed offices in all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. AARP represents more than 35 million members in total, approximately 2.7 million of whom reside in the State of Florida. AARP's Florida members reside throughout the state and a significant number of them are retail residential customers of FPL.

AARP Florida Members' Substantial Interests Affected

6. As stated above, AARP has approximately 2.7 million members in the State of Florida, a significant number of whom reside in FPL's service territory and take their electric service from the utility. Therefore, many of AARP's members will be substantially affected by any action the Commission takes in this docket, which will necessarily include retail rate increases if the utility's requested relief is granted.

7. Statement of Affected Interests

The Commission will decide in this docket whether to approve FPL's request to implement a "Storm Cost Recovery Clause" to allow it to recover \$536 million in storm-related costs. Furthermore, the Commission must decide whether FPL's request violates the Stipulation and Settlement Agreement entered into in FPL's last rate case, which was approved by, and incorporated into, Commission Order No. PSC-02-0501-AS-EI (the "Rate Case Order"). It is AARP's position that the Rate Case Order limits FPL's ability to petition for an increase in its base rates and charges that would take effect prior to December 31, 2005. Furthermore, 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 base rate items.

8. AARP's members taking retail electric service from FPL have interests of the type this proceeding is designed to protect. See *Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2nd DCA 1981). The purpose of the proceeding is to evaluate FPL's request, to review the nature of its costs and expenditures to determine if any such costs are appropriate for recovery, to review the manner in which FPL requests to recover such costs, and to review whether FPL's request violates the Rate Case Order. These issues will affect AARP's FPL customer members' substantial interests by potentially increasing their costs of electricity, which necessarily will reduce their monies available for other purposes.

9. Disputed Issues of Material Fact

Disputed issues of material fact include, but are not limited to, the following:

- a. What is the appropriate recovery period for any storm-related costs the Commission permits FPL to recover?
- b. Did FPL act reasonably and prudently prior to the storms to minimize storm-related costs?
- c. Have all costs incurred in the normal course of business been removed from FPL's request?
- d. Has FPL appropriately booked and accounted for storm-related costs?
- e. What is the amount of FPL's reasonably and prudently incurred storm-related costs?
- f. Should all or some of FPL's storm-related costs be absorbed through base rates?
- g. What ROE should be applicable to FPL?
- h. What is the proper mechanism for FPL to recover storm-related costs?

10. Disputed Legal Issues. Disputed legal issues include, but are not limited to, the following:

- a. Does the Commission have the statutory authority to establish a storm restoration surcharge?
- b. Is FPL entitled to any recovery if it cannot prove it is earning below its authorized ROE?

11. Statement of Ultimate Facts Alleged. Ultimate facts include, but are not limited to, the following:

- a. FPL has the burden to prove and document all alleged storm-related costs for which it seeks recovery;
- b. FPL has the burden to prove that no costs are included in its recovery request that are part of ordinary operations and maintenance expenses;
- c. FPL has the burden to prove that no costs for which it seeks recovery are or should be included in base rates; and
- d. FPL has the burden to prove that all costs for which FPL seeks recovery were reasonably and prudently incurred.

WHEREFORE, AARP requests that this Commission grant it intervenor status in this docket as a full party on behalf of the significant number of its approximately 2.7 million Florida members taking retail electric service from Florida Power and Light Company

Respectfully submitted,

/s/ Michael B. Twomey

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this petition has been served by U.S.

Mail and electronic mail this 29th day of March, 2005 on the following:

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