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From: Tim Perry [tperry@mac-law.com]
Sent: Tuesday, May 10, 2005 4:33 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 041291-EI
Attachments: FIPUG's Post-Hearing Brief and Statement of Issues and Positions - 5-10-05.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 17; and
5. Attached to this e-mail in Adobe format is The Florida Industrial Power Users Group's Post-Hearing Brief and Statement of Issues and Positions.

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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: May 10, 2005

FLORIDA INDUSTRIAL POWER USERS GROUP'S POST-HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS

PRELIMINARY STATEMENT[1]

Pursuant to Rule 28-106.215, Florida Administrative Code, FIPUG hereby files its Post-Hearing Brief and Statement of Issues and Positions.

INTRODUCTION

The overriding issue that must be addressed in this proceeding is whether the Commission will adhere to the principle it expressed in June 1993[2] in the leading storm order. In that order, the Commission set the standard for all of the storm damage cases that followed. The Commission said:

> FPL's cost recovery proposal goes beyond the substitution of self-insurance for its existing policy. The utility wants a guarantee that storm losses will have no effect on its earnings. We believe it would be inappropriate to transfer all risk of storm loss directly to ratepayers. The Commission has never required ratepayers to indemnify utilities from storm damage. Even with traditional insurance, utilities are not free from this risk. This type of damage is a normal business risk in Florida.[3]

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[1] The following abbreviations are used in this brief: the Florida Public Service Commission is referred to as the Commission. The Office of Public Counsel is called OPC. The Florida Industrial Power Users Group is called FIPUG. Florida Power & Light is called FPL. The transcript is referred to as (Tr.) followed by the page number, and exhibits are referred to as Exhibit No. ___. Commission Rule 25-6.1043, Florida Administrative Code, is sometimes referred to as the Storm Damage Rule.

[2] In re: Petition to implement a self-insurance by Florida Power and Light Company, Docket No. 930405-EI, Order No. PSC-93-0918-FOF-EI. ("the lead case").

[3] Id.

The message sent by that order was clear: utility companies are not risk free in storm damage cases and utility earnings are not immune from reasonable adjustments.

SUMMARY OF ARGUMENT

With unabashed hubris, FPL plans to avoid the commitment it made in its 2002 rate settlement agreement with consumers[4] to absorb all expenses until its return on equity falls below 10%. Insult is then added to injury when FPL asks the Commission to recognize that portion of the settlement that allows earnings in excess of the last authorized return.

Not only does FPL demand cake without having to eat its vegetables, FPL wants a la mode topping on the cake — it shifts all risk of loss from storm damage to customers and further profits by double counting some normal expenses. In the two years prior to the hurricanes of 2004, the Stipulation and Settlement allowed FPL to earn in excess of a 12% return on equity.[5] If it can achieve its end in this case, FPL will realize a non-refundable profit in 2004 that exceeds 12.81%[6] — 281 basis points beyond what has been testified to as a "generous" or "comfortably high" ROE.[7] FIPUG lived up to its end of the 2002 settlement agreement and did not complain when FPL profited greatly under the Stipulation and Settlement. Consumers expect FPL to live up to its end of the bargain now that storm expenses have impacted customers greatly.

The arguments presented by FIPUG in this brief will depict the unfairness of FPL's accounting devices and provide a resolution that is just and equitable for all parties. FIPUG first addresses the FPL accounting scheme that results in double recovery of normal expenses. Next, it points to a fair method for sharing storm damage costs that is entirely consistent with the Stipulation and Settlement.

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[4] In re: Review of the retail rates of Florida Power & Light Company; In re: Fuel and purchased power cost recovery clause with generating performance incentive factor, Docket Nos. 001148-EI and 020001-EI, Order No. PSC-02-0501-AS-EI. ("Stipulation and Settlement")

[5] Stipulation and Settlement at ¶3; Exhibit No. 43.

[6] Exhibit 43.

[7] Tr. 281

ARGUMENT

I. FPL Should not get Double Recovery For Storm Damage Costs Issues 1 through 16

The basic concept of insurance is to spread the cost of a casualty loss over a very large group. Using this design, insurance is able to provide protection for the injured party against a catastrophic loss for a relatively small fee. The Commission's storm orders recognized the value of spreading the cost over a national or international base. FPL was ordered to continue its attempts to obtain insurance and to explore the benefits of a mutual Florida utility sharing pool.[8] An unintended outcome of ordering utilities to look for insurance is the fact that, from the utility viewpoint, there is no incentive to buy insurance to spread the risk for the benefit of their customers if they can keep the insurance premiums approved in base rates and require consumers to pay the full storm cost.

After Hurricane Andrew, the perceived cost of storm damage rose. Insurance premiums rose along with it. In 1993, when FPL's petition for self-insurance was pending, FPL reported that it received a annual premium quote of $23 million[9] for $100 million of coverage Prior to that time it had $350 million coverage for a premium of $3.5 million.[10] Because of the changes taking place with insurance coverage, self-insurance seemed to be a viable alternative to traditional insurance at that time. In addition, the Commission directed FPL to examine an alternative to self-insurance in the form of a utility mutual risk sharing pool. Not surprisingly, this alternative went nowhere. Utility companies don't want to share in the risk of loss if they believe they can persuade regulators to put all the risk on their customers.

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[8] Order No. PSC-93-0918-FOF-EI, supra.
[9] Id.
[10] Id.

In 1993 FPL opted for self-insurance, but as you will see below that phrase is obsolete. Utility self-insurance as envisioned in the lead case[11] and the Storm Damage Rule[12], arose in the framework of base rates. The Storm Damage Rule allows a utility to defer storm damage expense until it has time to collect the costs through base rates. The logic of the rule is based upon the understanding that without the deferral utilities would suffer the entire loss. This is because electric rates are set prospectively. Without the storm damage rule, non-recurring prior storm losses would be ignored in a base rate case. With deferral, base rates can be set to allow a storm damage recovery. At the same time, if earnings are out of line, excess earnings can be used to partially defray the storm expense.

Rate history and public acceptance are two of the statutory criteria that govern base rate cases.[13] From the viewpoint of history and public acceptance, the base rate approach to storm damage is far preferable to method chosen by FPL in this case. This is because in a base rate proceeding, utility earnings are considered in conjunction with storm expense recovery. Thus, in a base rate proceeding the Commission can consider earnings when apportioning risk between the utility (the insured) and the ratepayer (the insurer), similar to how risk is shared with commercial insurance. If necessary, the Commission can then limit earnings and apply any excess earnings to defray storm costs. FIPUG believes that the Commission in the lead case envisioned this "earnings limitation approach."[14]

The earnings limitation approach was utilized in at least two other cases. In the 1994 Florida Power Corporation (FPC) rate case, FPC offered to cap its 1994 earnings at a 12.50% ROE and proposed to apply any excess earnings to first accelerate the going concern value of its

[11] Order No. PSC-93-0918-FOF-EI, supra.
[12] Rule 25-6.0143, Florida Administrative Code.
[13] §366.06(1), Florida Statutes.
[14] Order No. PSC-93-0918-FOF-EI, supra.

Sebring plant and then recognize additional storm damage expense.[15] In the 1996 Gulf Power storm case, the Commission approved a proposal by Gulf Power to apply any earnings for calendar year 1995 in excess of 12.75% return on equity to the Company's uninsured property damage reserve, which had achieved a negative balance as a result of Hurricanes Erin and Opal.[16] FIPUG's (and the other intervenors') position in this case is entirely consistent with the two aforementioned cases. We ask that the Commission apply earnings to the storm reserve to help raise the balance.[17]

FPL's plan turns the storm recovery rule on its head. Instead of a device to protect the utility from unanticipated expenses and to provide time for the Commission to examine storm losses in connection with other costs and earnings the rule is used to provide a guaranteed profit sweetener. This is a purpose that was never intended when the rule was adopted in the context of base rates. The deferral of expenses, on top of the "double dipping"[18] accounting manipulation explained below bolsters 2004 earnings appreciably.

FPL disclosed in 1993[19] that it preferred to use the "actual restoration cost approach" to book costs to the storm damage reserve. Essentially, this methodology contemplates that all costs attributable to a storm will be booked to the storm reserve[20], and is a recipe for "customer

[15] In re: Investigation into Currently Authorized Return on Equity and Earnings of Florida Power Corporation; In Re: Petition for Authorization to Implement a Self-Insurance Program for Storm Damage to its Transmission and Distribution (T & D) Lines and to Increase Annual Storm Damage Expense by Florida Power Corporation, Docket Nos. 940621-EI, 930867-EI, Order No. PSC-94-0852-FOF-EI.
[16] In Re: Petition For Approval of Special Accounting Treatment of Expenditures Related to Hurricane Erin and Hurricane Opal by Gulf Power Company, Docket No. 951433-EI, Order No. PSC-96-0023-FOF-EI
[17] Tr. 409-411.
[18] Tr. 398.
[19] Exhibit No. 24. This Commission ordered FPL to file this study in Order No PSC-93-0918-FOF-EI.
[20] Exhibit No. 24, page 9.

recovery and profit." Further, FPL asserts that the Commission approved the actual restoration cost methodology in Order No. PSC-95-0264-FOF-EI.[21]

A closer inspection of the 1995 Order reveals that nowhere does the Commission expressly approve of the actual restoration cost approach preferred by FPL or disapprove of the incremental approach, which is also discussed in FPL's study.[22] Rather, the 1995 Order simply approves of the study as "adequate." Moreover, since the 1993 Study was filed, there has never been a docketed proceeding where the methodology that FPL uses to charge costs to the storm damage reserve was examined or approved.

In the 1993 Study, FPL attempted to justify an "actual restoration cost" approach over the incremental approach supported by the intervenors in this case.[23] FPL's analysis was flawed. It showed the actual restoration cost approach to be $29 million more cost effective than the incremental approach, but it is actually not as cost-effective. FPL erred in its calculation of costs under the incremental approach by adding $46 million in speculative lost revenues and by failing to give credit for $42 million expended for permanent improvements (the "net book value adjustment"). The same exhibit estimates that there will be $1 million in catch up work after a storm. FIPUG concedes that a million dollars for catch-up work is reasonable, but concludes that FPL's chart showing the incremental approach as more expensive is misguided.

Intervenors have identified the areas where double recovery takes place under FPL's actual restoration cost approach. Issues 4 through 14 enumerate the areas where the regulatory experts determined that consumers had already paid for FPL's storm expenses in the normal course of business. They found that FPL is trying to collect for the same work a second time by

[21] Tr. 91-94. In Re: Petition to implement a self-insurance mechanism for storm damage to transmission and distribution system and to resume and increase annual contribution to storm and property insurance reserve fund by Florida Power & Light Company, Docket No. 930405-EI, Order No. PSC-95-0264-FOF-EI (1995 Order).
[22] Tr. 210-212
[23] Exhibit 24, page 15 of 51.

designating normal work storm damage.[24] Such "double-dips", which the Commission should disallow, include approximately $32 million of regular salaries charged to the storm reserve[25]; $4.2 million of claimed storm-related costs related to tree-trimming[26]; $28 million to $36 million in costs for removal that have already been paid by FPL's customers[27]; $1.5 million of materials and supplies costs[28]; and $5.26 million of claimed vehicle fleet expenses.[29]

FPL attempts to justify its "double dipping" in 2004 by claiming that if the actual restoration cost approach is not applied, the Commission must consider other impacts as a result of the storms. The largest of these impacts is FPL's estimated $38.2 million in lost base rate revenues.[30] However, FPL's lost revenue figure does not square with historical base rate revenues. In August 2004, FPL took in approximately $347.7 million in revenues, about $0.5 million more than in August 2002 and $10 million more than in August 2003.[31] In September 2004, FPL took in approximately $331.9 million in revenues, about $6 million less than in September 2002 and 2003. In October 2004, FPL collected approximately $309.5 million in revenues, about $3 million less than in October 2002 and $9 million more than in October 2003. Thus, FPL's revenues during August through September were only $8.5 million less than the same months in 2002 and $13 million more than those same months in 2003. Given these historical levels, it seems implausible that FPL lost $38.2 million in revenues as Mr. Davis has claimed.

FPL's lost revenue angle flies in the face of historic justifications used by utilities when they normalize weather to discount a portion of their revenues in base rate cases. In this case,

[24] Tr.398-99, 402-04.
[25] Tr. 403; Exhibit No. 34, Document 24.
[26] Tr. 150, Exhibit No. 36.
[27] Tr. 435.
[28] Tr. 101.
[29] Tr. 403.
[30] Tr. 107, Exhibit No. 26.
[31] Exhibit No. 2, Bates 260.

FPL implies that if it had normalized revenues for weather in 2004 its retainable profits would be greater. But the ROE in calendar year 2004 was already 181 points over the last authorized return and 281[32] basis points over the return agreed to in the Stipulation and Settlement in the event of unforeseen expenses.[33] FPL's justification for its entitlement to lost revenue is because an excessive return was authorized in the Stipulation and Settlement. Under FPL's interpretation of the Stipulation and Settlement it is entitled to reap the benefits, but is not bound to adhere to the agreed upon earnings low point. It concludes that the bargain requires customers to be hopelessly ensnared in the requirement to pay more.

FPL's accounting technique converts a large portion of the 2004 base rates paid by customers to cover normal expenses into corporate profits worth millions. What should the Commission do about the accounting legerdemain? At the very least, normal operating expenses should be deducted from the storm damage claim. In addition, OPC's witnesses Majoros and Rothschild have presented a simple method that would allow FPL to both recover the costs incurred as a result of the storm damage reserve and earn a fair rate of return. Their method is discussed in the next section.

II. The 2002 Stipulation and Settlement Provides the Best Method for Sharing the Cost of the Hurricanes Issues 19 through 21

Under the Stipulation and Settlement,[34] FPL agreed not to seek an increase in its base rates and charges, including interim rate increases, that would take effect prior to December 31, 2005. As paragraph 8 of the Stipulation and Settlement made clear, FPL could only seek to amend its base rates if its earnings fell below a 10% ROE as reported on a Commission adjusted

[32] footnotes 6 and 7, supra.
[33] footnotes 6 and 7, supra.
[34] Order No. PSC-02-0501-AS-EI.

or pro-forma basis on an FPL monthly earnings surveillance report.[35] Although paragraph 13 states that FPL may petition the Commission for cost recovery if the storm damage reserve is insufficient to cover the cost of a storm, this paragraph should not be read in isolation; rather, the Commission should read paragraph 13 in context of the whole document, including the unqualified provision in paragraph 8 that requires FPL to absorb unusual costs until its ROE has fallen to 10%.

In this case, FPL seeks to collect 100% of the costs through a surcharge, thereby insulating its earnings from the effect of the storms, in violation of the terms of the Stipulation and Settlement, 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. By absorbing costs down to this 10% ROE safety net, FPL will be permitted to recover the 2004 storm-related costs reflected in the negative balance of the storm reserve while earning a generous or conservatively high return in today's market.[36] Most industries would salivate over earning a 10% return, but it is made even better in FPL's case because by consolidating its return with its parent holding company, FPL is able to collect taxes from its electric customers that it doesn't have to pay.

Moreover, this approach comports with the action taken by the Commission in the past whereby Florida Power Corp.[37] and Gulf Power[38] applied excess earnings to the storm damage reserve, as well as the lead case where the Commission recognized storm damage as a normal business operating risk for FPL.[39] Further, in light of the fact that hurricanes are a business operating risk for FPL, its shareholders are compensated for bearing this risk in the form of a

[35] Order No. PSC-02-0501-AS-EI.
[36] Tr. 281.
[37] Order No. PSC-94-0852-FOF-EI, supra.
[38] Order No. PSC-96-0023-FOF-EI, supra.
[39] Order No. PSC-93-0918-FOF-EI, supra.

"risk **premium.**"[40] FPL's proposal makes a blatant grab to keep this risk premium while shifting the risk of hurricanes to its consumers who are paying FPL and its shareholders to bear this risk! As Mr. Rothschild testified, "[b]ecause ratepayers pay rates that compensate investors for all risks, including storm damage, it would be entirely inappropriate to shift the full risk of such costs to ratepayers."[41] Even after bearing its fair share of the costs to the 10% ROE level, FPL's shareholders will still be paid a risk premium of approximately $250 million by FPL's ratepayers in 2004.[42]

FIPUG also recommends a variation on the risk sharing approach. For 2004, the Commission should require FPL to book the amount of storm damage expense to bring its after tax return on equity to 10%. In 2005, the Commission should allow that return to increase to the 11%,[43] with excess earnings applied to reduce the storm damage costs. For 2006, FPL would be allowed to earn the return the Commission finds to be proper in the pending rate case.

CONCLUSION

The Commission shouldn't put up with FPL's "customer recovery and profit" proposal that the company says was approved in 1995.[44] Instead it should adhere to the following: (1) the rationale for dealing with storm damage visualized in 1988 when the storm damage rule was adopted, (2) the rationale of the previous storm damage orders that provided a risk sharing approach and (3) the rationale of the negotiated settlement agreement that settled the last FPL rate case after all the evidence was filed. FPL shouldn't be allowed to reap the benefits of the agreement while avoiding its obligations. Adhering to these rationales will allow FPL to both recover the costs incurred as a result of the storm damage reserve and earn a fair rate of return.

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[40] Tr. 264-65, 278.
[41] Tr. 263.
[42] Tr. 264-65, 279.
[43] Order No. PSC-02-0501-AS-EI at 4 (section entitled "PARAGRAPH 3").
[44] Tr. 91-94.

POST-HEARING 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 prejudge 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: *Agree with OPC's Position: 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 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: *Agree with OPC's Position: 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?

FIPUG: *Agree with OPC: 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?

FIPUG: *Agree with OPC: 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. The Commission should disallow $5,261,887from the amount that FPL charged to the storm damage reserve.*

ISSUE 10: Has FPL properly determined the costs of call center activities 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 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: *Agree with OPC: The amount of the negative deficiency calculated by FPL should be reduced by $1,700,000.*

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

FIPUG: *FPL should not charge 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?**

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, in this docket, 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, should the Commission take into account:**

a. **Revenues lost by the Company due to the disruption of customer service during the 2004 storm season or the absence of customers after the storms;**

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);**

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: *Agree with OPC.*

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 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. FIPUG agrees with OPC's figure of approximately $398.2 million.*

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

FIPUG: *Agree with OPC: It is inappropriate to consider a blanket request for a single overall finding as to the reasonableness and prudence of the myriad of storm-related costs, totaling some $890 million, that FPL says it was required to incur. Further, in the disposition of this issue the Commission should preserve the right of any party to challenge the reasonableness and/or prudence of any expenditure during the true-up phase of the proceeding.*

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: *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 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: *Agree with OPC: To the extent that any amounts are approved for recovery from FPL's customers, FPL should be permitted to apply an interest factor, calculated as follows: Each month FPL should apply the 30 day commercial paper rate to the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.575% taxes.*

ISSUE 24: **WITHDRAWN**

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

FIPUG: *Agree with Staff.*

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: *FPL 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. 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: WITHDRAWN

ISSUE 31: Should the docket be closed?

FIPUG: *No. The docket should remain open to enable parties and the Commission to ensure that FPL collects the appropriate amount.*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Florida Industrial Power Users Group's Post-Hearing Brief and Statement of Issues and Positions has been furnished by e-mail and U.S. Mail this 10th day of May 2005, to the following:

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