

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Florida Power & Light Company's)		
Petition for Authority to Recover Prudently)		
Incurred Storm Restoration Costs Related)	DOCKET NO.	041291-EI
To the 2004 Storm Season That Exceed)	Filed:	May 10, 2005
The Storm Reserve Balance.)		

TWOMEYS' POST HEARING STATEMENT OF ISSUES AND POSITIONS

Pursuant to Order No. PSC-04-1150-PCO-EI, issued November 18, 2004, Thomas P.

Twomey and Genevieve E. Twomey file their Post Hearing Statement Of Issues And Positions, as follows.

BASIC POSITION:

TWOMEYS: *Per its Agreement, Florida Power & Light Company (FPL) cannot request a base rate increase effective prior to January 1, 2006 unless its return on equity falls below 10 percent. The Commission should require FPL to absorb storm-related costs to the extent required to reduce its ROE to 10% based on 2004 results. If necessary to maintain its financial indicators, FPL should be allowed to defer its portion of the storm expense and amortize it over up to three years.*

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?

TWOMEYS: * FPL's 1993 study and Order No. PSC-95-0264-FOF-EI are not legally dispositive of the accounting methodology that the Commission should require FPL to apply to 2004 storm costs. The study and order do not preclude the Commission from requiring FPL to share in the costs of restoring its system to the point that its earnings are reduced to 10 percent, which remains a fair and reasonable return in the current market.*

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?

TWOMEYS: *No. The storm damage reserve should be limited to extraordinary costs that are incremental to the amounts that FPL would have spent on the replacement plant,

cost of removal, and O&M in the absence of the storms.*

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?

TWOMEYS: *They appear to be consistent, although it is worth noting that portions of the 1993 study reflect the expectation that accounting entries would involve payments by insurance companies, not customers.*

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?

TWOMEYS: *No. Consistent with the principle that FPL should charge to the storm damage reserve only incremental and extraordinary costs, the Commission should require FPL to remove \$10.9 million of non-management employee labor payroll expense from the amount charged to the storm reserve because it is already included in the budgeted amounts supported by base rates.*

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?

TWOMEYS: *No. The Commission should require FPL to remove \$21.1 million 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?

TWOMEYS: *FPL should stop charging amounts related to the 2004 storm season to the storm damage reserve after foreign utilities have departed, FPL employees are no longer working overtime hours beyond the level normally expected, and the contractors that FPL employs routinely are working at a normal rate.*

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?

TWOMEYS: *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?

TWOMEYS: *No. The Commission should disallow the difference between the amount budgeted for tree trimming and the amount FPL actually spent on tree trimming. Based on the 2004 budget, \$1 million should be disallowed. However, based on the six months closest to the hurricanes \$4.2 million should be disallowed.*

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?

TWOMEYS: *No. 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. \$5.261 million.*

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?

TWOMEYS: *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?

TWOMEYS *No. 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?

TWOMEYS: *It is inappropriate to charge any portion of uncollectible expense to the storm damage reserve. It appears FPL has not made any such charges.*

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?

TWOMEYS: *Yes. FPL should be required to book the normal cost of replacements to plant in service and the normal cost of removal to the cost of removal reserve. The Commission should require FPL to charge \$27 million to rate base and charge \$36 million to the cost of removal reserve.*

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?

TWOMEYS: *FPL should charge only the costs of the materials and supplies used during restoration activities to the storm reserve. It should not charge the costs of replenishing supplies and inventories to the reserve. To the extent the Company has charged normal, annual costs to the storm account, that amount should be eliminated from amounts charged to the storm damage reserve. The difference between budgeted and actual costs of \$1.5 million should be removed.*

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.

TWOMEYS: a. Lost revenues due to the impact of the 2004 storm season:

No. The storm damage reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system.

- 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):

*Only if the Commission first requires FPL to remove regular payroll costs

from the storm reserve should it consider this category of overtime.*

- 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):

Only if the Commission first requires FPL to remove regular, normal payroll costs from the storm reserve should it consider a claim for “catch-up” work.

- d. Uncollectible accounts receivable write-offs directly related to the storms:

*No. The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system. Uncollectible accounts receivable, consisting of money owed to FPL that FPL decides to write off, are not *costs*, and labeling them as such does not make them so.*

- 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:

No. The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system.

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?

TWOMEYS: *The amount sought by FPL should be reduced by a minimum of \$99.4 million as a result of the resolution of Issues 1-15.*

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

TWOMEYS: *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, as was the case in the counterpart PEF petition (Docket No. 041272-EI), 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?

TWOMEYS: *FPL is the monopoly provider of an essential service. The response to the “issue” is

found in its statutory obligations. FPL has a regulatory obligation to provide safe and reliable electric service, including restoration of service after hurricanes or tropical storms.*

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?

TWOMEYS: *Yes. The stipulation requires FPL to absorb storm-related expenses through earnings until its ROE is reduced to 10% before modifying rates. This equates to \$270,512,000 that FPL should be required to absorb through earnings.*

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?

TWOMEYS: *Yes. Investors are paid to take risks and should pay a portion of the storm costs. An equity return of 10% will allow FPL to earn a reasonable rate of return, so the Commission should identify the 2004 earnings above 10% ROE as the amount of costs associated with the negative balance in the storm reserve that FPL should recover by the application of corporate earnings to reduce the negative balance rather than a surcharge on customers' bills.*

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

TWOMEYS: *No more than \$128,000,000. The Commission should consider the availability of excess depreciation reserves to obviate some or all of the need to collect this amount from customers through a surcharge.*

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?

TWOMEYS: *The negative balance should be maintained in a separate subaccount, so as to segregate it from the positive balance resulting from future accruals.*

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?

TWOMEYS: 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% for 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?

TWOMEYS: *As recommended by Commission Staff in the Prehearing Order.*

ISSUE 26: What is the appropriate recovery period?

TWOMEYS: *The appropriate period is a function of the amount authorized to be recovered and the interest factor, as each has an impact on customers. The Commission should prescribe a period that takes both impacts into account.*

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?

TWOMEYS: * Yes.*

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?

TWOMEYS: * Thirty days after the Commission's vote, to be applied to bills during the following billing cycle.*

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

TWOMEYS: *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?

TWOMEYS: No. The docket should remain open pending verification of actual costs.

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.

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