

State of Florida



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COMMISSION CLERK

# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

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**DATE:** May 19, 2005

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Economic Regulation (Slemkewicz) JS  
Office of the General Counsel (Brubaker) JB

**RE:** Docket No. 050225-EI – Joint petition of Office of Public Counsel, Florida Industrial Power Users Group, and Tampa Electric Company for approval of stipulation and settlement as full and complete resolution of any and all matters and issues which might be addressed in connection with matters regarding effects of Hurricanes Charley, Frances, and Jeanne on Tampa Electric Company's Accumulated Provision for Property Insurance, Account No. 228.1.

**AGENDA:** 05/31/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\050225.RCM.DOC  
L:\PSC\LIBRARY\FILINGS\05\03184-05.PDF –  
ATTACHMENT A

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### Case Background

On April 1, 2005, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG) and Tampa Electric Company (TECO) filed a Joint Petition for Approval of Stipulation and Settlement (Stipulation). The purpose of the Stipulation is to effect a disposition and complete resolution of any and all matters and issues which might be addressed in connection with matters regarding the effects of Hurricanes Charley, Frances, and Jeanne on TECO's Accumulated Provision for Property Insurance, Account No. 228.1. The Stipulation provides that \$38,877,284, of the total storm restoration costs of \$73,353,366, be classified to the Utility Plant Accounts. The remaining storm restoration costs of \$34,476,082 are to be charged

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FPSC-COMMISSION CLERK

Docket No. 050225-EI

Date: May 19, 2005

against the Property Insurance Reserve balance, which was \$42,333,333 on August 1, 2004. After this charge, the Property Insurance Reserve would have a positive balance of \$7,857,251 and would continue to grow by the authorized annual accrual of \$4 million. TECO is not requesting a surcharge in this docket. This recommendation addresses the merits of the Stipulation. The Stipulation is attached hereto as Attachment A.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05 and 366.06, Florida Statutes.

**Discussion of Issues**

**Issue 1:** Should the Commission approve the Stipulation and Settlement?

**Recommendation:** Yes, the Commission should approve the Stipulation and Settlement.  
(Slemkewicz)

**Staff Analysis:** Between August 13, 2004, and September 26, 2004, Hurricanes Charley, Frances, and Jeanne struck TECO's service territory causing extensive damage to TECO's distribution and transmission systems. As a result, 631,000 customers were impacted, causing the worst outage situation in the Company's history. In order to repair its system and restore service to its customers, TECO estimates that it will ultimately spend \$73.353 million once all of the repairs are completed and all of the costs are known. TECO, like the other Florida investor-owned electric utilities, self-insures for storm damage to its transmission and distribution facilities through the use of a property insurance reserve account. This account also covers other property losses not covered by insurance, such as deductible amounts related to its insured power plants. The authorized amount of TECO's annual accrual to the property insurance reserve is \$4 million.

Prior to Hurricanes Charley, Frances and Jeanne, TECO had accumulated \$42.3 million in its property insurance reserve. As shown on Exhibit A to the Stipulation, the total estimated restoration costs related to the hurricanes are \$73.4 million. Per the terms of the Stipulation, TECO will capitalize \$38.9 million of the total amount, leaving a balance of \$34.5 million to be charged against the reserve. After charging the \$34.5 million of storm restoration costs against the reserve balance of \$42.3 million, a positive balance of \$7.9 million remains in the property insurance reserve. Through the normal storm damage accrual, TECO anticipates that the property insurance reserve balance will grow to \$11.2 million by the start of the 2005 hurricane season on June 1, 2005.

The major highlights contained in the Stipulation are as follows:

- Property Insurance Reserve balance at August 1, 2004 was \$42,333,333
- Total costs associated with Hurricanes Charley, Frances and Jeanne: \$73,353,366
  - Amount Capitalized to Account 101 (35,345,268)
  - Costs of Removal Charged to Account 108 (3,532,016)
  - Net Costs to be Charged to Property Insurance Reserve \$34,476,082
- Original cost of assets replaced to be removed from Electric Plant In Service and Accumulated Provision for Depreciation of Electric Utility Plant - \$4,024,301.
- No increase in base rates to become effective prior to January 1, 2007
- May petition for a storm cost surcharge based on future hurricanes or tropical storms

- TECO will continue its authorized annual storm damage accrual of \$4 million

Most of the Stipulation's provisions and the exhibit are self-explanatory, but Section 5 merits comment. TECO originally used the replacement cost approach to determine the appropriate amounts to be charged to the property insurance reserve. The use of that methodology is consistent with Order No. PSC-95-0255-FOF-EI, issued February 23, 1995, in Docket No. 930987-EI, In Re: Investigation into currently authorized return on equity of TAMPA ELECTRIC COMPANY. That order also prohibited charging lost revenues and special employee assistance costs against the reserve. Under the replacement cost approach, the total cost of restoration and related activities would be charged against the property insurance reserve. Thus, TECO's facilities would be restored to their pre-damage condition and the plant accounts would reflect the book value of the replaced plant prior to the damage caused by the storms. Utilizing this methodology, TECO charged \$73.353 million of storm restoration costs against the property insurance reserve. This resulted in a reserve deficit of \$31.020 million prior to the Stipulation.

Per the Stipulation, however, TECO capitalized \$38.877 million of the total storm restoration costs of \$73.353 million, leaving only \$34.476 million of storm restoration costs to be charged against the property insurance reserve. As a result of capitalizing the \$38.877 million, the property insurance reserve has a \$7.857 million positive balance as of August 1, 2004, rather than a \$31.020 million deficit. The \$38.877 million to be capitalized includes approximately \$14.1 million that could be considered "normal" costs if the activities had not been undertaken for restoration purposes related to the hurricanes. The difference of approximately \$24.8 million is the "excess capital cost" which is a direct result of the rapid restoration of service. Staff would normally take exception with the capitalization of this "excess capital cost." However, in this case, staff does not believe that capitalizing this amount harms the customer. The result of leaving this amount in the storm reserve account or capitalizing it as electric plant in service has no current effect on rate base. The effect of not capitalizing the amount would result in a negative instead of a positive storm reserve going into the 2005 hurricane season. Staff would, therefore, not take exception to the capitalization of this amount in this case.

Also included in the \$73.353 million of total restoration costs is \$5,239,187 of TECO personnel straight time pay. Such "normal" costs and straight time labor costs were excluded from recovery in Gulf Power Company's stipulation with OPC and FIPUG that was approved in Order No. PSC-05-0250-PAA-EI, issued March 4, 2005, in Docket No. 050093-EI, In re: Petition for approval of stipulation and settlement for special accounting treatment and recovery of costs associated with Hurricane Ivan's impact on Gulf Power Company. The appropriateness of these types of expenditures are also at issue in both the Progress Energy Florida, Inc. and Florida Power & Light Company storm cost recovery dockets. Although staff believes that these "normal" costs should not be charged to the reserve, the costs are not material enough to justify a recommendation to not accept the Stipulation.

Staff has reviewed the Stipulation and believes that it is a reasonable resolution of the issues regarding the impacts of Hurricanes Charley, Frances, and Jeanne on TECO's property insurance reserve. In the Stipulation, TECO has agreed to capitalize \$35.345 million to Account 101, Electric Plant In Service. In addition, \$3.532 million of Costs of Removal will be charged

to Account 108, Accumulated Provision for Depreciation of Electric Utility Plant. The sum of these two adjustments is the \$38.9 million that TECO will capitalize. TECO will also remove \$4.024 million of the original costs of assets replaced as a result of the hurricanes by retiring the costs through a charge to Account 108 and a credit to Account 101. TECO further agrees not to petition for an increase in its base rates, including interim rate increases, to take effect until January 1, 2007, or after. However, TECO may petition to recover a storm cost surcharge if it is adversely affected by a future named tropical storm or hurricane.

Although it is not addressed in the Stipulation itself, it is staff's understanding that any difference between the estimated restoration costs of \$73.353 million, as stated in the Stipulation, and the actual restoration costs will be charged to the property insurance reserve. Based on TECO's response to a staff data request, the total revised estimate of the restoration costs, as of April 27, 2005, was \$73,954,089.

In staff's opinion, the Stipulation balances the interests of the ratepayers and TECO and results in no increase in the ratepayers' rates. Staff therefore recommends that the Stipulation is in the public interest and that the Commission should approve the Stipulation settling all of the issues regarding the impact of Hurricanes Charley, Frances, and Jeanne on TECO's property insurance reserve.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes, if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Brubaker)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

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P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

April 1, 2005

HAND DELIVERED

Ms. Blanca S. Bayo, Director  
Division of Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

050225-EI

Re: Joint Petition for approval of accounting treatment of Tampa Electric Company's costs associated with Hurricanes Charley, Frances and Jeanne

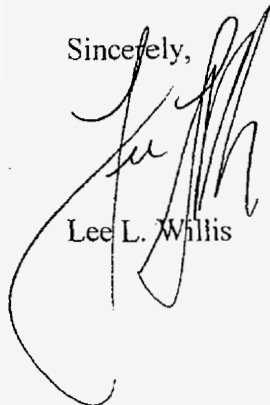
Dear Ms. Bayo:

Enclosed for filing in the above-styled matter on behalf of the Office of Public Counsel, Florida Industrial Power Users Group and Tampa Electric Company are the original and fifteen (15) copies of a Joint Petition for Approval of Stipulation and Settlement.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

Thank you for your assistance in connection with this matter.

Sincerely,



Lee L. Willis

LLW/pp  
Enclosure

cc: All Parties of Record (w/enc.)

DOCUMENT NUMBER-DATE

03184 APR-1 05

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for approval of accounting )  
treatment of Tampa Electric Company's costs )  
associated with Hurricanes Charley, Frances ) Docket No. 05 0225 - EI  
and Jeanne. ) Date Filed: April 1, 2005

**JOINT PETITION FOR APPROVAL  
OF STIPULATION AND SETTLEMENT**


The Citizens of the State of Florida, through the Office of Public Counsel, the Florida Industrial Power Users Group, through its undersigned counsel, and Tampa Electric Company, through their respective undersigned counsel, jointly petition the Florida Public Service Commission for entry of a final order approving the attached Stipulation and Settlement as full and complete resolution of any and all matters and issues which might be addressed in connection with the matters set forth therein regarding the effects of Hurricanes Charley, Frances and Jeanne on Tampa Electric Company's Accumulated Provision for Property Insurance, Account No. 228.1 in accordance with Section 120.57(4), Florida Statutes (2003).

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WHEREFORE, the undersigned parties respectfully urge the Florida Public Service Commission to approve the attached Stipulation and Settlement in all respects.

DATED this 1<sup>st</sup> day of April, 2005.

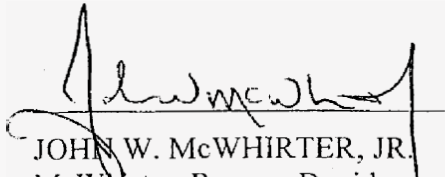
Respectfully submitted,



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c/o The Florida Legislature  
Room 812  
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FOR THE CITIZENS OF THE  
STATE OF FLORIDA



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ATTORNEYS FOR TAMPA  
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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Joint Petition for approval of accounting )  
Treatment of Tampa Electric Company's costs )  
Associated with Hurricanes Charley, Frances )  
And Jeanne )

**STIPULATION AND SETTLEMENT**

The Office of Public Counsel ("OPC"), the Florida Industrial Power Users Group ("FIPUG"), and Tampa Electric Company ("Tampa Electric" or "the company") (collectively, "the Parties"), pursuant to Section 120.57(4), Florida Statutes (2003), have entered into this Stipulation and Settlement to effect a disposition and complete resolution of any and all matters and issues which might be addressed in connection with the matters set forth herein regarding the effects of Hurricanes Charley, Frances and Jeanne on the company's Accumulated Provision for Property Insurance, Account No. 228.1

WHEREAS, in less than six weeks between August 13 and September 26, 2004 Tampa Electric's service territory was ravaged by three major hurricanes, impacting more than 631,000 customers, causing the worst outage situation in the company's history; and

WHEREAS, the hurricanes inflicted extensive damage to 15,000 spans of distribution wire and required the repair or replacement of 1,600 distribution poles and 1,000 distribution transformers, 64,800 feet of conductor, 259 spans of transmission lines and more than 100 transmission towers; and

WHEREAS, in order to restore service to its customers as rapidly as possible, Tampa Electric was able to bring in more than 4,600 outside workers and related equipment to augment the efforts of Tampa Electric's employees; and

WHEREAS, Tampa Electric estimates the costs of repairing its system and restoring service to customers will reach \$73.353 million once all costs are known; and

WHEREAS, pursuant to Rule 25-6.143, Florida Administrative Code, Tampa Electric maintains a property insurance reserve account (Account No. 228.1, for the purpose of covering the costs of property losses not covered by insurance; and

WHEREAS, in Order No. PSC-95-0255-FOF-EI in Docket No. 930987-EI the Florida Public Service Commission (“Commission”) ordered Tampa Electric to accrue \$4 million annually to its property insurance reserve; and

WHEREAS, prior to Hurricanes Charley, Frances, and Jeanne, Tampa Electric over time had accumulated \$42.233 million in its property insurance reserve account; and

WHEREAS, consistent with its current practice, Tampa Electric would ordinarily charge to its property insurance reserve all of its 2004 storm damage costs, resulting in a significant negative balance;

WHEREAS, through Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code, the Commission allows electric utilities subject to the rule, including Tampa Electric, to defer recognition of the storm damage expenses to future periods that are reflected in a negative property insurance reserve balance in anticipation of future alternative treatment; and

WHEREAS, for settlement purposes only, the parties are receptive to a compromise that would address the storm cost accounting in a manner that takes into account the specific concerns of OPC and FIPUG, regarding the kinds of costs appropriate to be charged to the property insurance reserve; and

WHEREAS, to avoid the time, expense and uncertainty associated with potential adversarial litigation regarding the matters addressed herein, the Parties entered into negotiations designed to reach an agreement that will address the needs and objectives identified above while protecting their respective interests; and

WHEREAS, the effect of the terms to which the Parties have agreed result in a positive balance in Tampa Electric's property insurance reserve.

NOW THEREFORE, Tampa Electric, OPC and FIPUG agree, stipulate and bind themselves to the following:

1. Tampa Electric, OPC and FIPUG hereby approve and adopt all of the foregoing recitations.

2. This Stipulation and Settlement will become effective upon issuance of a final order whereby the Commission approves this Stipulation and Settlement and will serve as Tampa Electric's accounting treatment for costs associated with Hurricanes Charley, Frances and Jeanne charged to the property insurance reserve.

3. For the sole purpose of this Stipulation and Settlement, and without prejudice to the right and ability of any party to assert how such charges associated with future storms should be charged to the property insurance reserve, the Parties adopt and agree to adhere to the accounting treatment outlined in this document. The Parties further agree that the willingness of each of them to enter this Stipulation and Settlement is contingent on the final approval by the Commission of this Stipulation and Settlement in its entirety.

4. At this time, Tampa Electric's estimate for storm costs associated with Hurricanes Charley, Frances and Jeanne are \$73.353 million. As of August 1, 2004 the

company's balance in Account No. 228.1, Accumulated Provision for Property Insurance, was \$42.333 million leaving a deficit or negative balance, prior to the accounting treatment agreed to herein, of \$31.020 million.

5. The company agrees to remove capital expenditures associated with Hurricanes Charley, Frances and Jeanne from the property insurance reserve and charge them to Account No. 101, Electric Plant In-Service. The company also agrees to remove costs of removal associated with Hurricanes Charley, Frances and Jeanne from the property insurance reserve and charge that to Account No. 108, Accumulated Provision for Depreciation of Electric Utility Plant. Further the company agrees to remove from Electric Plant In-Service and Accumulated Provision for Depreciation of Electric Utility Plant the original cost of assets replaced during Hurricanes Charley, Frances and Jeanne. Once these adjustments are made and the normal annual accrual of \$4 million is made, the property insurance reserve is expected to have a positive balance of \$11.191 million by June 1, the first day of the 2005 hurricane season as shown on the attached Exhibit A.

6. Tampa Electric agrees to continue to accrue its normal annual accrual to the property insurance reserve of \$4 million as directed in Order No. PSC-95-0255-FOF-EI in Docket No. 930987-EI.

7. Except under circumstances provided for within this Stipulation and Settlement, Tampa Electric agrees that it will not petition for an increase in its base rates, including interim rate increases, to take effect until January 1, 2007 or after. Notwithstanding the foregoing, the Parties agree that in the event Tampa Electric is adversely affected by a future named tropical storm or hurricane during the term of this Stipulation, the company may petition the Commission to recover by a storm cost

surcharge prudently incurred costs arising from storm recovery activity, not otherwise paid by customers or booked as additions to capital or cost of removal, to and only to the extent that such costs exceed the sum of the property insurance reserve maintained by the company and any insurance or similar proceeds. Parties to this Stipulation and Settlement are not precluded from participating in such a proceeding and may advocate any position including, but not limited to, advocating an allocation of the sum of recoverable costs between Tampa Electric and its ratepayers and a limitation of the costs eligible for recovery under a storm cost surcharge to the share allocated to the company.

8. No party to this Stipulation and Settlement will request, support or seek to impose a change in the application of any provision hereof. Subject to the approval of the Commission set forth, all Parties hereto waive any right to request further administrative or judicial proceedings in regards to the establishment or implementation of this Stipulation and Settlement. Such requests for further administrative or judicial proceedings shall include, but not be limited to, a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code; a motion for reconsideration of the decision in this matter in the form prescribed by Rule 25-22.060, Florida Administrative Code; or a notice of appeal to initiate judicial review by the Florida Supreme Court pursuant to Rule 9.110, Florida Rules of Appellate Procedure, in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

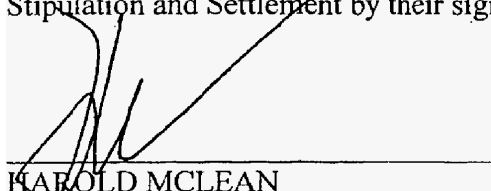
9. This Stipulation and Settlement Agreement is contingent upon approval in its entirety by the Florida Public Service Commission. This Stipulation and Settlement will resolve all matters discussed herein pursuant to and in accordance with Section 120.57(4), Florida Statutes (2003). If this Stipulation and Settlement is not accepted and

approved without modification by an order not subject to further proceedings or judicial review, then this Stipulation and Settlement shall be considered null and void and of no further force or effect.

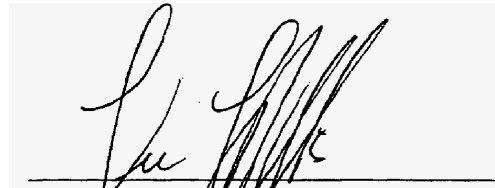
10. It is understood and explicitly agreed that the Parties have entered this Stipulation for purposes of settlement, and their participation shall not prejudice the right and ability of any party hereto to take any position in any other proceeding in any venue.

DATED this 1<sup>st</sup> day of April 2005.

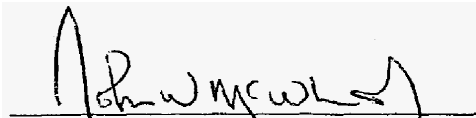
The Parties evidence their acceptance and agreement with the provisions of this Stipulation and Settlement by their signatures:



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**EXHIBIT A**

**Tampa Electric Company**  
**Accounting Treatment for Costs Associated with**  
**Hurricanes Charley, Frances and Jeanne**

Total Costs Associated with Hurricanes Charley, Frances and Jeanne	\$73,353,366
Expenditures to be Classified to Utility Plant Accounts	<u>38,877,284</u>
Remaining Costs in Property Insurance Reserve	34,476,082
Property Insurance Reserve Balance at August 1, 2004	<u>42,333,333</u>
Balance After Reclassification to Utility Plant Accounts	<u>\$ 7,857,251</u>
Expected Property Reserve Balance at June 1, 2005	\$11,190,585