

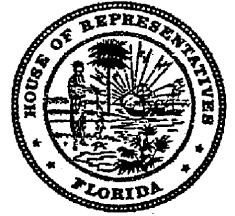
TOM LEE
President

ORIGINAL

ALLEN BENSE
Speaker



STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL



c/o THE FLORIDA LEGISLATURE
111 WEST MADISON ST.
ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330

Harold McLean
Public Counsel

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV

Charles J. Beck
Deputy Public Counsel

April 10, 2006

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

Re: Docket No. 060038-EI

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of OPC Prehearing Statement. A diskette in Word format is also submitted.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

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Sincerely,

Charles J. Beck
Deputy Public Counsel

cc: all parties of record

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's)
Petition for Issuance of a Storm)
Recovery Financing Order)
_____)

Docket No. 060038-EI

Filed: April 10, 2006

CITIZENS' PREHEARING STATEMENT

Pursuant to Order No. PSC-06-0069-PCO-EI, issued January 26, 2006, the Citizens of Florida (Citizens or OPC), by and through Harold McLean, Public Counsel, file this prehearing statement.

Witnesses

Citizens prefiled testimony by the following witnesses:

- (1) James S. Byerley, P.E. Mr. Byerley's testimony reviews and evaluates the adequacy of Florida Power and Light Company's pre-storm inspection and maintenance practices as they bear on the extent of system damages sustained in the 2005 Hurricane Wilma.

- (2) Hugh Larkin, Jr. Mr. Larkin's testimony sets forth the accounting and regulatory principles which the Commission should apply to the recovery of storm damages.

(3) Donna DeRonne, C.P.A. Ms. DeRonne's testimony presents the impact of the principles set forth in OPC witness Hugh Larkin, Jr.'s testimony on the 2005 storm recovery costs requested by FPL.

(4) Stephen A. Stewart (sponsored jointly with AARP). Mr Stewart addresses the appropriate level for the storm damage reserve.

Prefiled Exhibits

Witnesses for Citizens prefiled the following exhibits:

James S. Byerley, P.E.

- (JSB-1) Report of Field Inspection Trip
- (JSB-2) FPL Facility Review
- (JSB-3) FPL Pole Yard Inspection
- (JSB-4) Response to Interrogatory No. 126
- (JSB-5) Memorandum of C.J. Wong
- (JSB-6) 1998 Analytical Techniques
- (JSB-7) Conservation- Corbett Inspection
- (JSB-8) FPL Staff Report
- (JSB-9) Comparison of 1999 and 2005 Bolt Inspections

- (JSB-10) Peening Cross Brace Bolt Threads
- (JSB-11) Reliability 2000 Deployment Plan
- (JSB-12) Program Evaluation Matrix
- (JSB-13) Random Review of FPL Thermovision Inspection Reports
- (JSB-14) RUS Bulletin 1730 B-121
Pages 6 & 7
- (JSB-15) Wilma Forensics – Excerpt, Page 11
- (JSB-16) Hardening of the Infrastructure-A
Five Point Plan
- (JSB-17) Hardening Distribution's Infrastructure
Executive Summary
- (JSB-18) Wilma Forensics – Excerpt, Page 9

Hugh Larkin, Jr.

- (HL-1) Comparison of Monthly Actual Sales to Estimated

Donna DeRonne, C.P.A.

- (DD-1) Adjustments to 2005 Storm Cost Estimates
- (DD-2) Adjustment to 2004 Storm Cost Estimates

Stephen A. Stewart

- (SAS-1) Storm Damage Reserve Level Scenarios

Citizens may use other exhibits during cross examination of the company's witnesses. Citizens will file a notice in accordance with the orders governing procedure

identifying any documents Florida Power & Light Company claims to be confidential which Citizens may use during cross examination. Some of the documents OPC intends to use are listed in another section of this Prehearing Statement.

Statement of Basic Position

The extent of the damages caused by Hurricane Wilma to FPL's transmission and distribution facilities was exacerbated by prior inadequate inspection and maintenance practices by FPL. Specifically, the failures of the Corbett-Conservation 500 kV line and the Alva-Corbett 230 kV line were the result of maintenance practices and construction management that were inadequate, especially in light of the fact that FPL knew as early as 1998 of loose and missing brace bolts on the Corbett-Conservation towers.

FPL was aware of a widespread problem of loose and missing cross-brace bolts as early as 1998. Also in 1998, FPL was aware that this problem could pose a serious risk of failure in high wind situations. FPL failed to take adequate measures to rectify the loose bolts problem in 1998 and the following years. FPL failed to properly record the problem in its asset management system, on which it bases inspection decisions. Perhaps because of the resulting inadequate records, FPL failed to establish an inspection program adequate to monitor and correct the problem after 1998. Had FPL peened all of the bolt threads, as internal documents suggested at the time, or had FPL

placed fasteners on all of the cross brace bolts, as its structural engineer recommended after 30 towers collapsed, the towers would not have fallen during Hurricane Wilma.

Of FPL's three pole inspection programs, only one—the Osmose program—constitutes a detailed and effective inspection program. FPL initiated it in a small way in 1999, and has since reduced the scope of the program. Past inspection practices have been, with the exception of the limited Osmose program, insufficient to identify and replace deteriorated poles, with the result that many of the poles that fell during Wilma did so—not because of high winds—but because of their deteriorated condition. Inadequate vegetation management is responsible for 12% of the total poles failures. Since FPL has apparently concluded that it is more cost effective, for its purposes, to replace tree-damaged poles than to prevent the damage, FPL is not entitled to recover their preventable costs, nor are they are entitled to recover the repair costs of the conductors associated with these poles.

The Commission must also not allow FPL to include costs in hurricane repair if they are the types of costs already reflected in base rates. Normal levels of employee salaries is an example of this type of cost. Under the approach advocated by OPC, in order for a cost to be recovered, it must be incremental, or over and above, what is reflected in base rates. Unlike the method proposed by FPL here, the incremental approach is the general approach adopted by the Commission in 2004 and is the one proposed by Gulf Power in its pending securitization proceeding. In addition to salaries and benefits, adjustments should be made to tree-trimming, vehicle costs,

telecommunications costs, and materials and supplies to reflect the incremental cost method.

Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. For example, lawsuit claims and image enhancing advertising should be removed. Claims for still unrealized contingencies should be eliminated. In addition, offsets should be made for items such as proceeds received for other companies for assisting them with hurricane repairs and amounts due from companies such as BellSouth for repairing their poles. FPL fails to account for these offsets in its request.

The overall approach of FPL essentially asks the Florida Public Service Commission to hold the Company harmless from all business risk. It should be kept in mind that the purpose of regulation is to be a substitute for competition. The Public Service Commission should look to the business risk which was borne by FPL's customers in regard to the storm damage they incurred as a proxy for the business risk which FPL should bear. Customers were not able to make claims for items such as lost revenue, backfill, employee assistance, advertising, etc. Because of the tremendous strain that the storms have placed on Southern Florida and the Florida economy in general, the Commission must spread the burden of storm restoration costs in a fair and equitable manner and not attempt to remove the business risk for which FPL is already compensated in its rate of return.

A storm damage reserve level of \$150 million to \$200 million is large enough to withstand the storm damage from most but not all storm seasons over the last 16 years. Any storm damage reserve deficiencies resulting from excessive losses could be addressed with a separate surcharge. Keeping the storm damage reserve level as low as is reasonably possible will reduce interest and bond issuance costs and minimize the financial impact on customers' rates, while still allowing FPL and the Commission the flexibility to address FPL's prudent storm recovery costs from year to year.

Issues and Positions

CHARGES TO STORM RESERVE

2004 Storm Costs

Issue 1: Did FPL stop charging 2004 storm-related costs to the storm reserve by July 31, 2005, for restoration work related to the 2004 storm season, as required by Order No. PSC-05-0937-FOF-EI? If not, what adjustments should be made?

Citizens' Position: No. FPL added accruals to the 2004 storm reserve for legal claims and lawsuits and various nuclear storm damages that were not requested or identified in testimony, exhibits or other evidence in the record in Docket No. 041291-EI. Adjustments should be made to remove legal claims and lawsuits of \$2,664,038 and accruals for various nuclear storm damages of \$21,467,915. Also, 2004 storm costs should be adjusted to remove \$21,700,000 allowed in Order No. PSC-05-0937-FOF-EI that FPL did not reflect as actual or estimated projects initiated prior to the cutoff date of July 31, 2005. (DeRonne)

Issue 2: Should the 2004 storm costs be adjusted for other items? If so, what is the appropriate adjustment?

Citizens' Position: Yes, the 2004 storm costs should be adjusted to remove the estimated amounts for reimbursements for repair and restoration of poles owned by other parties. The amount recommended to be removed by OPC witness DeRonne is \$5,564,858. The adjustment should be adjusted to reflect the actual amount billed to other parties if the record subsequently reflects this amount. A review should be conducted once the actual amounts are trued-up to ensure that the billings to outside parties for FPL's repair and replacement of poles owned by others is based on the actual costs incurred by FPL. (DeRonne)

Issue 3: Should an adjustment be made to reflect the actual December 31, 2005 storm cost deficiency related to the 2004 costs. If so, what is the amount of the adjustment?

Citizens' Position: Yes, the 2004 reserve deficiency should be reduced \$51,396,811 to reflect the adjustments recommended by OPC witness DeRonne in Issues 1 and 2, above with a corresponding reduction in interest expense accrued at the pre-tax commercial paper rate on the account.

Issue 4: Has FPL properly accounted for the after-tax effects of interest on unrecovered storm costs?

Citizens' Position: No position at this time, other than to state that interest should be reduced to reflect the reduction to the 2004 storm costs included in the reserve as recommended by OPC witness DeRonne.

2005 Storm Costs

Issue 5: What is the legal effect, if any, of Order No. PSC-05-0937-FOF-EI on the decisions to be made in this docket?

Citizens' Position: Order No. PSC-05-0937-FOF-EI contains some precedent for the Commission's decision in this case. However, the Commission can amend its policy decisions on issues such as lost revenues and the treatment of amounts FPL claims are uncollectible because such changes are supported by expert testimony and other evidence appropriate to the nature of the issues involved. *Southern States Utilities v. Florida Public Service Commission*, 714 So.2d 1046, 1057 (Fla. 1st D.C.A. 1998); *Florida Cities Water Company v. Florida Public Service Commission*, 705 So.2d 620 (Fla. 1st D.C.A. 1998).

Issue 6: What is the appropriate methodology to be used for booking the 2005 storm damage costs to the Storm Damage Reserve?

Citizens' Position: The risk shouldered by ratepayers in compensating companies for storm damage costs should be limited to the incremental costs incurred by utilities in restoring service to ratepayers that were

prudently incurred, reasonable in amount, and otherwise properly charged to the storm reserve account. That incremental cost should reflect only those additional costs incurred by the company in restoring service which exceed costs already considered and reflected in rates. FPL's use of the total instead of incremental storm cost recovery methodology results in charging ratepayers twice for the same dollars, once through base rates and a second time through a storm recovery charge. Further, because the storm reserve should be limited to incremental costs of restoring the system, so-called "lost revenues" have no place in the Commission's determination, whether directly or indirectly. The purpose of the storm reserve is not to insulate FPL from the business risk associated with the possibility that revenues may vary with weather conditions. The incremental approach is also the methodology that Gulf Power has utilized in its storm recovery request and is the approach that the Commission should adopt. (Larkin)

Issue 7: Has FPL charged to the storm reserve any costs associated with replacements or improvements that would have been needed in the absence of 2005 storms, and so should be charged to regular O&M or placed in rate base and accounted for accordingly? If so, what adjustments should be made?

Citizens' Position: Yes. FPL has charged several items to the 2005 storm recovery costs that were maintenance projects planned prior to the damage incurred in 2005 by the storms, normal maintenance costs or offsets to O&M expenses which are recovered through base rates.

Previously Planned Maintenance - Condenser Tube Repairs: The projected 2005 storm recovery costs include \$2,386,000 for condenser tube repairs at Martin Units 1 and 2 that were planned maintenance prior to Hurricane Wilma. These costs should be included as base rate recovery items and should not be recovered through the storm reserve.

Regular Maintenance Costs - Hydrolasing Costs: FPL's 2005 storm cost estimate also includes \$144,000 for hydrolasing the Martin Unit 1 and 2 condenser tubes and \$77,000 for hydrolasing the Martin Units 3 and 4 condenser tubes. The hydrolasing was conducted to clean the tubes to prepare for testing and is a normal, recurring maintenance item included in base rate recovery. The 2005 storm costs should be reduced by 221,000.

Proceeds received for the Loan of FPL Personnel & Equipment to Other Power Companies: During 2005, FPL billed \$9,095,845 for the loan of company personnel and equipment to other power companies for storm restoration activities. The majority of the costs incurred by FPL in assisting other utilities are included in the costs recovered from through base rates. The 2005 storm recovery costs be offset by \$6,868,593, which is the amount billed by FPL to other utilities for the recovery assistance of \$9,095,845, less the amounts pertaining to travel and other of \$2,227,252. (DeRonne)

Issue 8: Has FPL quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. Adjustments are necessary to ensure that the amount of payroll and labor related costs already recovered by FPL through base rates are not also recovered a second time through the recovery of the 2005 storm costs. Offset to these adjustments are not appropriate for nuclear payroll expected to be recovered through insurance, backfill and catch up work, or vacation buy backs. The following adjustments are appropriate:

Remove Estimated Regular Employee Salaries	(\$26,092,000)
Less: Payroll Normally Charged to Clauses	2,730,000
Less: Capital Payroll in Regular Salaries	8,000,000
Remove Employee Benefits - Already in Base Rates	<u>(9,213,514)</u>
Total Incremental Salary/Payroll Related Adjustments	<u>(\$24,575,514)</u>

Issue 9: Has FPL charged to the storm reserve any amounts quantified the appropriate amount of managerial employees payroll expense that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. The storm recovery cost is not a basis on which to provide extra compensation to employees who are salaried and have accepted that salary as full compensation for all time that they are required to put in. The 2005 storm costs should be reduced by \$768,000 to remove exempt employee overtime incentives. (Larkin, DeRonne)

Issue 10: Has FPL charged to the storm reserve appropriate amounts related to employee training for storm restoration work for 2005? If yes not, what adjustments should be made?

Citizens' Position: It does not appear that FPL charged any employee training costs to the 2005 storm reserve, and as such, no adjustments are necessary.

Issue 11: Has FPL properly quantified the cost of tree trimming that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. Adjustments are necessary to ensure that costs recovered by FPL through base rates are not recovered a second time through recovery of storm costs. A \$1,100,000 reduction to the tree trimming costs is appropriate to reflect that FPL's actual expenditures for non-storm related tree trimming were less than it included in its budget for 2005 tree trimming. (DeRonne)

Issue 12: Has FPL properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. Adjustments are necessary to ensure that costs recovered by FPL through base rates are not recovered a second time through recovery of storm costs. A \$5,738,000 reduction is appropriate to remove a portion of the vehicle costs FPL indicates would have been incurred in the normal course of business, even absent the storms. FPL's 48% offset for vehicle costs it contends would have been incurred in the normal course of business (\$2,767,000) and charged to capital costs is not appropriate. The Company has not supported the offset, nor has it shown that vehicle costs were not otherwise included in the storm related or other capital costs. Further, this offset was not allowed by the Commission in the 2004 storm docket. (DeRonne)

Issue 13: Has FPL properly quantified the costs of call center activities that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. The actual operation and maintenance expenses for telecommunications costs in 2005 were \$520,264 less than budgeted. The proposed 2005 storm recovery costs should be reduced by this \$520,264 so that only the incremental telecommunications costs beyond those factored into base rates are included. (DeRonne)

Issue 14: Has FPL appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the 2005 storms? If not, what adjustments should be made?

Citizens' Position: No. Advertising costs for safety and other customer services are incorporated into the determination of base rates. Additional expenditures made informing the public of the Company's efforts to restore service are either covered in base rates or do not provide a direct benefit to ratepayers and are not directly related to the storm restoration efforts. As such, advertising and communications costs of \$2,528,196 and \$144,068 for a public relations invoice should be removed from the 2005 storm costs. (DeRonne)

Issue 15: Has uncollectible expense been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. It would be difficult, if not impossible, to relate uncollectible accounts directly to the effects of a storm. Even if it could be done, these expenses are not directly related to the restoration of service. They are in the nature of risk, which the Company is compensated for through the rate of return on equity. These types of business risks should not be compensated for through the storm recovery. Accordingly, the 2005 storm costs should be reduced by \$3,582,000 to remove the estimated uncollectible accounts included in the storm recovery request. See also issue 17(d). (Larkin)

Issue 16: Has FPL properly charged the normal cost of replacement to rate base and the normal cost of removal to the cost of removal reserve for the 2005 storms? If not, what adjustments should be made?

Citizens' Position: No. The capital portion total 2005 storm cost has increased from the original estimated amount of \$63,855,000 to \$66,819,000. This additional \$2,964,000 offset to the 2005 storm recovery costs should be made to reflect the higher portion of storm costs anticipated to be capital related, which would not be recovered from the storm reserve. (DeRonne).

Issue 17: If the Commission applies in this docket the methodology applied in Order No. PSC-05-0937-FOF-EI should the Commission take into account:

a. Amounts not recovered through base rates due to the disruption of service due to the 2005 storm season or the absence of customers after the storms;

Citizens' Position: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers.

Amounts not recovered through base rates due to the disruption of service from storms are clearly FPL's veiled attempt to recover lost revenues. Lost revenues are not a cost of restoring service. There is no expenditure of funds or outflow of cash represented and FPL's presentation is merely a calculated number based on estimates of possible sales during the storm outage period. While it is reasonable to assume that the Company could have billed customers during this period but for the storm outage, it is not reasonable to assume that these revenues are linked to, or result from, restoring service to customers. Further, while the Company's overall sales were less than estimated for all of 2005, the decline was apparently caused by other weather issues, not hurricane related outages. It is not uncommon for revenues to be over or under forecast for a variety of weather-related or economic factors during any given year.

If FPL was allowed recovery of lost revenues, shareholder risk would be shifted to ratepayers without a reduction in FPL's authorized return on equity included in base rates. Thus, FPL's

argument that \$51 million in lost revenues should be used as an offset to the incremental approach to storm recovery should be rejected. (Larkin)

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);

Citizens' Position: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. Backfill work is part of daily utility operations and maintenance of the Company's system and are included as part of base rates. These costs are not extraordinary, nor related to storm recovery and as such should not be used as an offset in the incremental approach to storm reserve accounting or recovery. (Larkin)

c. Costs associated with work that must be postponed due to the urgency of storm restoration and accomplished after the restoration was completed (catch-up work);

Citizens' Position: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. Catch-up is part of daily utility operations and maintenance of the Company's system and are included as part of base rates. These costs are not extraordinary, nor related to storm recovery and as such should not be used as an offset in the incremental approach to storm reserve accounting or recovery. (Larkin)

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

Citizens' Position: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. It would be difficult, if not impossible, to relate uncollectible accounts directly to the effects of a storm. Even if it could be done, these expenses are not directly related to the restoration of service. They are in the nature of risk, which the Company is compensated for through the rate of return on equity. These types of business risks should not be compensated for through the storm recovery. Accordingly, the 2005 storm costs

should be reduced by \$3,582,000 to remove the estimated uncollectible accounts included in the storm recovery request.
(Larkin)

e. Incremental contractor, outside professional services and temporary labor costs due to work postponed due to the urgency of storm restoration and accomplished after the restoration was completed;

Citizens' Position: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. These costs are similar to those described as catch-up work, which is part of daily utility operations and maintenance of the Company's system and included as part of base rates. These costs are not extraordinary, nor related to storm recovery and as such should not be used as an offset in the incremental approach to storm reserve accounting or recovery.
(Larkin)

f. Costs that would have otherwise been charged to clauses;

Citizens' Position: The Citizens agree that these costs should be offset against the regular salaries removed from the 2005 storm recovery costs.
(DeRonne)

g. Costs that would have otherwise been charged to capital.

Citizens' Position: The Citizens agree that these costs should be offset against the regular salaries removed from the 2005 storm recovery costs.
(DeRonne)

h. (new) Vacation Buy-Backs:

Citizens' Position: Vacation Buy-Backs are generated by the Company's vacation policy and not as a direct result of storm restoration activities. FPL could have changed its carryover policy and allowed employees to carryover any and all vacation which could not be taken in 2005. Instead, the Company chose to limit the carryover hours to 120 and reimburse employees for any vacation which could not be taken in 2005. FPL did not include these costs in its requested storm recovery costs and instead have included them as an offset to any

disallowances provided by the incremental approach to storm recovery. These amounts should not be included in the storm reserve nor used as an offset to adjustments made as a result of the incremental approach. (Larkin)

i. (new) Nuclear Payroll Expected to be Recovered Through Insurance:

Citizens' Position: In FPL's Incremental Cost Approach adjustment it includes a \$2,490,800 offset to the regular employee salaries for nuclear payroll costs that it already removed from the 2005 estimated storm recovery costs in the adjustment to remove the estimated insurance proceeds. If this adjustment is reflected, FPL would recover the associated amount twice, once from insurers and again from ratepayers. Therefore, this offset is inappropriate. (DeRonne)

Issue 18: Have landscaping costs been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. Landscaping that is not required by local zoning ordinances should not be included in the storm reserve.

Issue 19: Have lawsuit settlement charges been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. FPL has included \$2,849,571 for estimated property damage and personal injury costs for 2005 storm costs. These are not costs directly related to the storm recovery efforts or for the restoration of electric service to customers and should not be included in the costs to be recovered. Additionally, these types of costs are already considered in the determination of base rates and should not be recovered via the recovery of storm restoration costs. (DeRonne).

Issue 20: Have contingency portions of estimated storm costs been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?

Citizens' Position: No. The \$26.25 million of remaining contingencies as of the end of February 2006 should be removed from the storm cost estimates. If the amounts included in the storm reserve are over-estimated, the ratepayers will be locked in to paying higher amounts over the next twelve years under FPL's proposal. Moreover, FPL is treating upward adjustments to estimated "contingencies" as a way of maintaining its request at the level of its original petition, instead of lowering that request as actual figures come in below original estimates. FPL thus appears to regard the original request as a target that it wants to hit even if actual damages prove to be less than the estimate. FPL's premise, which is that if the costs are overestimated as a result of escalating contingency estimates, they will be trued-up and serve to increase the available reserve funds for future storms, is not reasonable. The estimates in FPL's petition were a starting point subject to adjustments based on actual figures, not an entitlement. The Commission should exclude the remaining contingencies. (DeRonne)

Issue 21: Should FPL be required to true-up approved 2005 storm related costs? If so, how should this be accomplished?

Citizens' Position: Yes. FPL should be required to true-up the actual costs incurred and not continue to increase the amount of contingency costs as a plug amount to keep the storm cost equal to the original amount requested or to the estimated amount approved by the Commission. A cut-off date of December 31, 2006 should be established for charging 2005 storm restoration costs to the reserve. It is not appropriate to allow an indefinite period for charging costs associated with the 2005 storms to the reserve. Thus, any projects for which physical construction has not commenced as of December 31, 2006 should be charged to base rates, not the storm reserve. (DeRonne)

Issue 22: Have the costs of repairing other entities' poles been charged to the storm reserve for 2005? If so, what adjustments should be made?

Citizens' Position: Yes. However, FPL has not yet billed the outside parties for the repairs or replacements, nor did it include an estimate to offset the storm recovery costs it has requested in this case. FPL's requested 2005 storm recovery cost estimate includes many estimates which increase the projected cost, but does not include

estimated offsets to such costs, other than for insurance recoveries. The 2005 storm costs should be reduced by a minimum of \$7,923,288 to reflect an estimate of the amounts billed to other parties. This represents a placeholder adjustment of 75% of the estimate provided by FPL witness Williams of \$10,564,384 to provide for an offset for capital costs. Further, a review should be conducted once the actual amounts are trued-up to ensure that the billings to outside parties for FPL's repair and replacement of poles owned by others is based on the actual costs incurred by FPL. (DeRonne)

Issue 23: Should the 2005 storm costs be adjusted for overbillings from outside contractors? If so, what is the appropriate adjustment?

Citizens' Position: FPL has adjusted the reserve to correct the overbillings from outside contractors. Therefore, it does not appear that any further adjustments are necessary.

Issue 24: Has FPL charged any other costs to the storm reserve that should be expensed or capitalized? If so, what adjustment should be made?

Citizens' Position: Yes. Additional adjustments should be made to the requested 2005 storm costs as described below:

Employee Assistance Costs: Costs provided to assist FPL employees to secure their personal damaged property should be removed. These are employee benefit costs and are not directly related to restoring FPL facilities. FPL employees are no different from other non-utility emergency workers that have to restore their own property and ratepayers should not bear these costs. Accordingly, 2005 storm costs should be reduced by \$245,025. (Larkin)

Repair Costs Under Warranty: FPL has included an estimated \$316,250 for a cooling tower fan repair at Martin Unit 8 even though a warranty claim is being pursued. Although the estimated amounts charged to the reserve will be trued-up to actual as the amounts become known, it is not appropriate to include such costs in the estimates. To potentially inflate the estimated storm costs under the premise that it will be trued-up later is a veiled attempt to

increase the amount provided in the reserve even more than the \$650 million replenishment already requested. (DeRonne)

Issue 25: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of 2005 storm related costs to be charged against the storm reserve, subject to a determination of prudence in this proceeding?

Citizens' Position: This is a fall-out issue.

Issue 26: At what point in time should FPL stop charging costs related to the 2005 storm season to the storm reserve?

Citizens' Position: The Commission should order that only projects that have been identified in this docket and physical construction has begun on or before December 31, 2006 should be allowed to be charged to the storm reserve for 2005 storm costs. (DeRonne)

PRUDENCE OF 2005 STORM CHARGES

Issue 27: Did FPL adequately inspect and maintain its distribution and transmission system for deterioration and overloading of poles prior to June 1, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

Citizens' Position: No. With respect to wood distribution poles, overall FPL's measures prior to Wilma were inadequate. In 1991, to reduce costs FPL eliminated the pole inspection program it had begun in the early 1980's. FPL implemented its "Osmose program" in 1999, but, while each inspection performed by Osmose is detailed and thorough (sounding, excavating, boring), the program is extremely limited, both in terms of geographical area and in the number of inspections (less than 1% of FPL's poles annually) conducted. The other pre-Wilma programs described by FPL (visual inspections of feeders performed by Thermovision crews, limited to spotting of obvious exterior damage, and hazard assessments by workmen designed to verify that a task can be performed safely) do not

amount to a true and effective pole inspection and maintenance program. Adjustments are appropriate to reflect FPL's failure to conduct an adequate pole inspection program, resulting in a higher level of pole and conductor replacements from the storm than would otherwise be the case. Mr. Byerley is recommending a pole replacement disallowance of \$12,000,000 and a conductor replacement disallowance of \$10,600,000 as a result of the inadequate pole inspection program. With respect to the costs that FPL seeks to recover through a surcharge or through securitization in this docket, because FPL agrees the normal capital costs associated with replacements should be removed from the restoration costs charged to the storm reserve, and because Mr. Byerley estimates FPL incurred costs 4 times greater than normal because of storm conditions, these amounts should be reduced to reflect the offset for the estimated 25% of capital related costs of \$3,000,000 for the pole replacement costs (\$12 M x 25%) and \$2,650,000 for the conductor replacements (\$10.6 M x 25%). However, because the "normal" capital costs also were the result of imprudence in the form of inadequate maintenance, plant in service also should be reduced by the capital related costs to ensure that ratepayers are not charged for these costs at the time of the next rate case. (Byerley)

Issue 28:

Did FPL adequately control vegetation around its distribution and transmission system prior to June 1, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

Citizens' Position:

No. Based on a review of past FPL distribution reliability reports, past vegetation management policies and budgets, and FPL's own assessments of preventable tree-related damage, OPC witness James Byerley concludes that FPL's pre-storm vegetation maintenance measures were inadequate. Mr. Byerley is recommending a pole replacement disallowance of \$6,040,000 and a conductor replacement disallowance of \$5,310,000 as a result of FPL's inadequate tree trimming program. The 2005 storm replacement costs should be reduced by \$6,040,000 and \$5,310,000, for the pole and conductor replacements, respectively. Because Mr. Byerley believes FPL incurred replacement costs that were at least 4 times greater than "normal" because of storm conditions, and because normal capital costs should not be charged to the storm reserve account, these amounts should be

reduced to reflect the offset of the estimated 25% of capital related costs of \$1,510,000 for the pole replacement costs (\$6.04M x 25%) and \$1,327,500 for the conductor replacements (\$5.31M x 25%). In addition, because these "normal" capital costs were the result of imprudence in the form of an inadequate vegetation management program, plant in service also should be reduced by these capital related costs to ensure that ratepayers are not charged for these costs at the time of the next rate case.

Pole Replacement Disallowance for Inadequate Tree Trimming (\$6,040,000); Pole Replacement Disallowance for Inadequate Tree Trimming - Capital Offset (25%) \$1,510,000; Conductor Replacement Disallowance for Inadequate Tree Trimming (\$5,310,000); Conductor Replacement Disallowance for Inadequate Tree Trimming - Capital Offset (25%) \$1,327,500. (Byerley)

Issue 29: Did FPL adequately inspect and maintain its distribution and transmission system prior to June 1, 2005? If not, what action should the Commission take with regard to any surcharges it may approve as a result of this docket?

Citizens' Position: No. For the reasons stated in response to Issues 27, 28, and 33, the Commission should conclude that FPL's pre-Wilma practices in the areas of wood pole inspections and maintenance and its transmission structure maintenance measures were inadequate, and exacerbated the extent of damage sustained during Hurricane Wilma. The Commission should make the appropriate adjustments necessary to prevent customers from bearing the extra costs that were incurred as a result of FPL's deficiencies in these areas. (Byerley)

Issue 30: Did FPL adequately inspect and maintain its distribution and transmission system for deterioration and overloading of poles prior to October 23, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

Citizens' Position: See Citizens' position on issue 29.

Issue 31: Did FPL adequately control vegetation around its distribution and transmission system prior to October 23, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

Citizens' Position: See Citizens' position on Issue 28.

Issue 32: Did FPL adequately inspect and maintain its distribution and transmission system prior to October 23, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

Citizens' Position: See Citizens' position on Issue 27.

Issue 33: What adjustment, if any, should the Commission make associated with the failure of 30 transmission towers of the 500 KV Conservation-Corbett transmission line and the failure of six structures on the Alva-Corbett 230 transmission line?

Citizens' Position: FPL discovered in 1998 that bolts on the cross-braces that are the source of the structural integrity of the Conservation-Corbett transmission towers were loose and/or missing on 31 towers. FPL's actions in 1998 to remedy the situation were inadequate, given the serious nature of the problem. FPL also failed to record the problem in the "asset management system" records that form the basis for its inspections, and thereafter failed to inspect the towers with a frequency and scope that was commensurate with the seriousness of the loose bolt problem. FPL, must therefore bear the responsibility for the failure of the Conservation-Corbett line, and FPL, not its customers, must bear the costs of repairing the line. The costs of repairs to the Conservation-Corbett transmission line repairs should not be included in the projected storm costs or in FPL's rate base. Accordingly, \$10,411,000 should be removed from both the total projected storm restoration costs and from the capital cost offset, resulting in a net impact to the 2005 storm recovery costs of \$0. The final order in this docket should specifically indicate that these costs are being disallowed and should not be included in plant in service; otherwise, ratepayers will pay for these costs, which the OPC believes to be imprudent.

In addition, the Alva-Corbett line failed because falling structures of the Conservation-Corbett line impacted the Alva-Corbett line, sending a dynamic shock that caused structures distant from the point of impact to fail. As the cause of the Alva-Corbett failure must be attributed to the same factors that led to the failure of Conservation-Corbett, all costs of repairing Alva-Corbett should be removed from the amounts charged to customers. (Byerley)

Issue 34: Should FPL be authorized to accrue and collect interest on the amount of 2005 storm-related costs permitted to be recovered from customers? If so, how should it be calculated?

Citizens' Position: FPL should only be allowed to accrue and collect interest on the actual amount of storm costs incurred less the adjustments made in this proceeding. Interest should not be accrued on any estimated amounts or contingency costs. The accrual of interest should begin in November, 2005 and cease when the first bonds are issued. The interest rate should be applied at the pre-tax commercial paper rate for each month.

Issue 35: Should the Commission require FPL's storm recovery costs for 2005 be shared between FPL's retail customers and FPL and, if so, to what extent?

Citizens' Position: No position.

Issue 36: Taking into account any adjustments identified in the preceding issues, what is the amount of reasonable and prudently incurred 2005 storm related costs that should be recovered from customers?

Citizens' Position: Based on the testimony of OPC witnesses Larkin, DeRonne and Byerley, the appropriate amount of 2005 storm costs should be \$701,570,380 on a system basis and \$701,016,139 on a jurisdictional basis. The final amount is subject to the resolution of other issues.

STORM DAMAGE RESERVE

Issue 37: What is the appropriate level of funding to replenish the storm damage reserve to be recovered through a mechanism approved in this proceeding?

Citizens' Position: The Commission should approve a reserve that meets the historically-stated threshold of covering the costs of most, if not all, storms. The appropriate level of funding for the storm reserve should be \$150 million. However, based on the projected increase in hurricane activity, the Commission could reasonably include a "safety margin" raising the approved reserve to \$200 million. (Stewart)

Issue 38: What portion, if any of the Reserve must be held in a funded Reserve and should there be any limitations on how the Reserve may be held, accessed or used?

Citizens' Position: Once the reserve regains a positive balance, the reserve should continue to be held in a funded account with the interest earned accruing to the benefit of the ratepayers.

Pursuant to sections 366.8260(1)(j), (k), and (n), Florida Statutes, funds obtained through securitization may be used only to finance storm-recovery costs incurred or that will be incurred by an electric utility in undertaking storm-recovery activity cause by storms. Storms are defined as named tropical storms or hurricanes that occurred during calendar year 2004 or thereafter. Funds obtained through securitization must therefore be restricted to storm recovery activities caused by named tropical storms or hurricanes.

RECOVERY MECHANISM

Issue 39: Is the issuance of storm-recovery bonds and the imposition of the Storm Charge, as proposed by FPL, reasonably expected to result in lower overall costs or avoid or significantly mitigate rate impacts to customers as compared with alternative methods of financing or recovering storm-recovery costs and storm-recovery reserve?

Citizens' Position: To ensure that the issuance of storm-recovery bonds results in the lowest overall cost to ratepayers compared with the alternative methods of financing, the "best practices" outlined in Commission staff witness Fichera's direct testimony should be adopted. These "best practices" include active participation by the Commission, its staff, and financial advisors in the bond issuance process which ensures that the ratepayers have protection in the process.

Issue 40: Does funding the reserve meet the definition of a cost within the meaning of Internal Revenue Service Revenue Procedure 2005-62? If not, what action should the Commission take with respect to the storm reserve?

Citizens' Position: No position at this time.

Issue 41: Should the unamortized balance of 2004 storm costs continue to be recovered through the current surcharge or should the balance be added to any amounts to be securitized?

Citizens' Position: After the reduction \$51,396,811 to reflect the true-up for actual 2004 storm costs and the disallowances of unauthorized costs, corresponding reductions to the amount of interest accrued based on actual not estimated storm and interest costs incurred, and the most recently available revenue collections, the unamortized balance of the 2004 storm costs should be included in the securitized amount if the Commission approves securitization.

Issue 42: Based on resolution of the preceding issues, what amount, if any, should the Commission authorize FPL to recover through securitization?

Citizens' Position: Based on the resolution of the preceding issues in accordance with the recommended adjustments advocated by the Citizens, FPL's requested storm-related costs of \$1,690,160,000 should be reduced by \$615,842,431. In addition, the storm-related costs should be reduced by the amount of interest related to the adjustments recommended and to reflect that interest should only be calculated on the actual amounts incurred not on estimated costs. The amount to be securitized should also be reduced to

remove the income taxes associated with the total storm-related costs to be recovered.

Issue 43: Based on resolution of the preceding issues, what amount, if any, should the Commission authorize FPL to recover through a traditional surcharge or other form of recovery?

Citizens' Position: Based on the resolution of the preceding issues in accordance with the recommended adjustments advocated by Citizens, no amount should continue to be collected through a surcharge or other form of recovery if the Commission approves the securitization methodology set forth in the "best practices" standard.

Issue 44: Should the Commission approve FPL's alternative request to implement a surcharge to be applied to bills rendered on or after June 15, 2006 for a period of three years for the purpose of recovering its prudently incurred 2005 storm costs and attempting to replenish the Reserve? If so, how should the Commission determine the following:

Citizens' Position: Based on the resolution of the preceding issues in accordance with the recommended adjustments advocated by Citizens, no amount should continue to be collected through a surcharge or other form of recovery if the Commission approves the securitization methodology set forth in the "best practices" standard.

a. The amount approved for recovery; and

Citizens' Position: No additional position taken.

b. The cost allocation to the rate classes.

Citizens' Position: No position.

Terms and Conditions of Financing Order for Securitized Amounts

Issue 45: What adjustment, if any, should be made so that the treatment of the deferred tax liability is revenue neutral from the ratepayer's perspective?

Citizens' Position: The deferred tax liability should be used to offset the carrying costs allowed to be recovered through the interest expense on the actual amount of 2005 storm recovery costs after reductions have been made consistent with the Citizens' positions.

Issue 46: Is the recovery of income taxes a financing cost eligible for recovery under Section 366.8260, Florida Statutes?

Citizens' Position: No position at this time.

Issue 47: If recovery of the taxes assessed on the storm recovery charges are not securitized, should the tax charge be included in the irrevocable financing order?

Citizens' Position: No position at this time.

Issue 48: Should FPL indemnify its ratepayers against an increase in the servicer fee in the event of the servicer's default due to negligence, misconduct, or termination for cause?

Citizens' Position: Yes. FPL should indemnify ratepayers against an increase in the servicer fee to protect the ratepayers from any potential negligence, misconduct, or termination for cause by FPL since FPL is in the position to prevent such conduct by its own actions.

Issue 49: What remedies should the PSC employ to protect customers in the event of a servicer's default?

Citizens' Position: FPL as the proposed servicer should be required to indemnify the ratepayers against any potential increase of the servicing fee or losses due to any breach of duties by FPL in its role as servicer.

Issue 50: What is the appropriate up-front and ongoing fee for the role of servicer throughout the term of the bonds?

Citizens' Position: The appropriate up-front and ongoing fee for FPL's role as the servicer throughout the term of the bond is the incremental cost to FPL for performing the servicer duties. FPL should be required to provide documentation to support its incremental cost which should be approved by the Commission. The difference between the servicing fee necessary to create an arms-length transaction and FPL's incremental costs should be used to offset the amount of storm costs charged to the reserve.

Issue 51: How much should FPL be permitted to recover from ratepayers for its role as servicer in this transaction?

Citizens' Position: FPL should be permitted to collect from ratepayers the servicing fee that is necessary to establish an arms-length transaction for purpose of creating an independent SPE. However, FPL should be allowed to keep only its incremental costs for servicing the bonds.

Issue 52: What is the appropriate up-front and ongoing fee for the role of administrator throughout the term of the bonds?

Citizens' Position: The appropriate up-front and ongoing fee for FPL's role as the administrator throughout the term of the bond is the incremental costs to FPL for performing the administrator duties. FPL should be required to provide documentation to support its incremental costs which should be approved by the Commission. The difference between the administrator fee necessary to create an arms-length transaction and FPL's incremental costs should be used to offset the amount of storm costs charged to the reserve.

Issue 53: How much should FPL be permitted to recover from ratepayers for its role as administrator in this transaction?

Citizens' Position: FPL should be permitted to collect from ratepayers the administering fee that is necessary to establish an arms-length transaction for purpose of creating an independent SPE. However,

FPL should be allowed to keep only its incremental costs for administering the bonds.

Issue 54: How frequently should FPL in its role as servicer be required to remit funds collected from ratepayers to the SPE?

Citizens' Position: FPL should remit funds collected from ratepayers daily and any interest float that FPL achieves should be transferred to the SPE to be used as an offset of future amounts owed to the SPE.

Issue 55: In the event any amounts remain in the Collection Account after all storm recovery bonds have been retired, what should be the disposition of these funds?

Citizens' Position: The amounts should be reflected as a credit on each customer's bill as a refund allocated among customer classes in the same manner that the storm charges were collected.

Issue 56: How should the Commission determine that the upfront bond issuance costs are appropriate?

Citizens' Position: The Commission should adopt the "best practices" standard through which the Commission is present and active in the bond issuance process to ensure the lowest overall costs to customers based on market conditions. The Commission's financial advisor should make an independent evaluation regarding lowest cost and that evaluation should be made available to the parties. If there is a dispute as to whether the lowest costs for the front costs were obtained based on the independent evaluation or other means, the matter should be brought before the Commission for resolution. If the Commission determines that the costs were overstated, the Commission should reduce the storm reserve for the difference or other remedy as is appropriate.

Issue 57: How should the Commission determine that the on-going costs associated with the bonds are appropriate?

Citizens' Position: The Commission should adopt the "best practices" standard through which the Commission is present and active in the bond issuance process to ensure the lowest overall costs to customers based on market conditions. The Commission's financial advisor should make an independent evaluation regarding lowest cost and that evaluation should be made available to the parties. If there is a dispute as to whether the lowest costs for the ongoing costs were obtained based on the independent evaluation or other means, the matter should be brought before the Commission for resolution. If the Commission determines that the costs were overstated, the Commission should credit the storm reserve for the difference or other remedy as is appropriate.

Issue 58: Is FPL's process for determining whether the upfront bond issuance costs satisfy the statutory standard of Section 366.8260(2)(b)5. reasonable and should it be approved?

Citizens' Position: No. The process outlined by FPL in its petition, proposed order, and testimony, does not allow the active participation of the Commission. FPL's process does not afford independent protection for the ratepayers to ensure that the up-front costs, on-going costs, and interest rates achieve the lowest overall cost based on real time market conditions. Therefore, FPL's proposed process is not reasonable and should not be approved.

Issue 59: Is FPL's process for determining whether the on-going costs satisfy the statutory standard of Section 366.8260(2)(b)5. reasonable and should it be approved?

Citizens' Position: No. The process outlined by FPL in its petition, proposed order, and testimony, does not allow the active participation of the Commission. FPL's process does not afford independent protection for the ratepayers to ensure that the up-front costs, on-going costs, and interest rates achieve the lowest overall cost based on real time market conditions. Therefore, FPL proposed process is not reasonable and should not be approved.

Issue 60: If the issuance of storm-recovery bonds is approved, should the bonds be sold through a negotiated or competitive sale?

Citizens' Position: No position at this time, however, the methodology that is employed should be that which produces the lowest overall cost based on real time market conditions.

Issue 61: What additional terms, conditions or representations should be made in the financing order to enhance the marketability of the bonds and achieve the lowest possible cost?

Citizens' Position: No position at this time.

Issue 62: Should all legal opinions and other transaction documents and subsequent amendments be filed and approved by the Commission before becoming operative?

Citizens' Position: Yes.

Issue 63: Is FPL's proposed Staff Pre-Issuance Review Process reasonable and should it be approved?

Citizens' Position: No. The process outlined by FPL in its petition, proposed order, and testimony, does not allow the active participation of the Commission. FPL's process does not afford independent protection for the ratepayers to ensure that the up-front costs, on-going costs, and interest rates achieve the lowest overall cost based on real time market conditions. Therefore, FPL's proposed process is not reasonable and should not be approved.

Issue 64: Should the Financing Documents be approved in substantially the form proposed by FPL, subject to modifications as addressed in the draft form of financing order?

Citizens' Position: No position at this time.

Issue 65: Should the Issuance Advice Letter be approved in substantially the form proposed by FPL?

Citizens' Position: No position at this time.

Issue 66: Should the Initial True-up Letter be approved in substantially the form proposed by FPL?

Citizens' Position: No position at this time.

Issue 67: How should the Commission ensure that the structure, marketing, and pricing of the storm recovery bonds result in the lowest possible burden on FPL's ratepayers?

Citizens' Position: The Commission should adopt the "best practices" standard which includes active participation by the Commission, its staff, and financial advisors in the bond issuance process.

Issue 68: Is the proposed structure, expected pricing and financing costs of the storm-recovery bonds reasonably expected to result in lower overall costs or avoid or significantly mitigate rate impacts to customers as compared with alternative methods of recovery?

Citizens' Position: No position at this time.

Issue 69: Should the Commission approve the use of floating rate securities and interest rate swaps if their use is reasonably expected to provide customer savings?

Citizens' Position: No position at this time.

Issue 70: Should FPL be afforded flexibility to include call provisions if their use is reasonably expected to provide customer savings?

Citizens' Position: No position at this time.

Issue 71: What additional flexibility should FPL be afforded in establishing the terms and conditions of the storm-recovery bonds, including, but not limited to, repayment schedules, interest rates, and other financing costs?

Citizens' Position: The Commission and FPL should work together in a collaborative process as described in the "best practices" standard to allow for flexibility by the parties to ensure that the lowest overall costs are obtain for the benefit of the ratepayers.

Issue 72: If the Commission approves FPL's proposed financing order, should FPL be allowed to establish a regulatory asset for the amount to replenish the Reserve?

Citizens' Position: Yes.

Issue 73: Should the Commission authorize FPL to establish a separate regulatory asset for the storm recovery property sold to the SPE and a separate regulatory asset for income taxes payable on the storm-recovery costs to be financed?

Citizens' Position: Yes.

Issue 74: Based on resolution of the preceding issues, should a financing order in substantially the form proposed by FPL be approved, including the findings of fact and conclusions of law as proposed?

Citizens' Position: No, the financing order needs to reflect the Commission's decision in this proceeding including findings of fact and law.

Issue 75: If the Commission approves the substance of FPL's primary recommendation, should the financing order require FPL to reduce the aggregate amount of the bond issuance in the event market rates rise to such an extent that the initial average retail cents per kWh charge associated with the bond issuance would exceed the average retail cents per kWh 2004 storm surcharge currently in effect?

Citizens' Position: No position at this time.

Issue 76: Should the Commission approve FPL's request that a surcharge be applied to bills rendered on or after August 15, 2006 to enable FPL to recover its prudently incurred 2005 storm costs in the event the issuance of storm-recovery bonds is delayed? If so, how should the Commission determine the following:

a. The amount approved for recovery;

Citizens' Position: FPL should not be permitted to initiate an interim rate to begin collecting for 2005 storm costs if the bond issuance is delayed. Any additional surcharge on top of the 2004 surcharge would negate the benefit of rate shock mitigation to the ratepayers avoided by the use of securitization. If the initial bond issuance is delayed beyond the period in which all actual 2004 storm costs, as adjusted by the Commission in this docket, have been collected, the rate for the 2004 storm costs should be allowed to continue until all of the 2005 actual, trued-up, storm costs have been collected or until the first bond is issued. The subsequent bond issuances should be netted for any amounts collected after the issuance of the financing order.

b. The calculation of the surcharge;

Citizens' Position: See above position under section (a).

c. The cost allocation to the rate classes; and

Citizens' Position: No position.

d. The surcharge's termination date.

Citizens' Position: See above position under section (a).

Terms for Traditional Recovery of Non-Securitized Amounts

Issue 77: If the Commission approves a recovery mechanism other than securitization, should an adjustment be made in the calculation of interest to recognize the storm-related deferred taxes?

Citizens' Position: Yes. FPL should only be allowed to accrue and collect interest on the actual amount of storm costs incurred less the adjustments made in this proceeding. The accrual of interest should begin in November, 2005 and the interest rate should be applied at the pre-tax commercial paper rate for each month so that the calculation is consistent with the recognition of credit deferred income taxes.

Issue 78: If the Commission approves a recovery mechanism other than securitization, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery?

Citizens' Position: No position at this time.

RATES

Issue 79: Are the energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism appropriate?

Citizens' Position: No position.

Issue 80: If the Commission approves recovery of any storm-related costs through securitization, how should the recovery of these costs be allocated to the rate classes?

Citizens' Position: No position.

Issue 81: If the Commission approves recovery of any storm-related costs through securitization, what is the appropriate recovery period for the Storm Recovery Charge?

Citizens' Position: No position at this time.

Issue 82: Is FPL's proposed Storm Charge True-Up Mechanism appropriate and consistent with 366.8260, Florida Statutes and should it be approved? If not, what formula-based mechanism for making expeditious periodic adjustments to storm-recovery charges should be approved?

Citizens' Position: No position at this time.

Issue 83: How frequently should the Storm Charge True-up Mechanism be conducted?

Citizens' Position: The storm charge true-up mechanism should be conducted every six months.

Issue 84: If the Commission approves the securitization of unrecovered 2004 storm costs, on what date should the 2004 Storm Restoration Surcharge be terminated?

Citizens' Position: The 2004 storm restoration surcharge should be terminated upon the institution of the storm bond repayment and storm bond tax charge.

Issue 85: If the Commission approves an amount to be securitized, on what date should the Storm Recovery Charge become effective?

Citizens' Position: No position at this time.

Issue 86: Should the Storm Recovery Charge be recognized as a separate line item on the customers' bill?

Citizens' Position: Yes.

OTHER

Issue 87: Are revenues collected through the approved mechanism for recovery (securitization or surcharge) excluded for purposes of performing any potential retail base rate revenue refund calculation under the Stipulation and Settlement approved by Commission Order PSC-05-0902-S-EI? (STIPULATED ISSUE)

Citizens' Position: Yes.

Issue 88: Should this docket be closed?

Citizens' Position: No.

Stipulated Issues

Citizens have not stipulated to any issues other than issue 87.

Pending Motions

Citizens have no pending motions at this time.

Pending Requests or Claims for Confidentiality

Citizens have no pending requests or claims for confidentiality.

Notice of Intent to Use Confidential Documents at Hearing

OPC currently expects to use the following documents at hearing which are subject to motions for temporary protective orders by FPL:

- (1) FPL supplemental responses to OPC interrogatory 108.
- (2) FPL original and supplemental responses to OPC interrogatory 178.
- (3) Documents provided on CD bates stamped 000095 in response to OPC.

request for production of documents no. 21: September, October, and November 2005 MTH.pdf.

(4) Document bearing bates #10583, which is an excerpt from an engineering drawing provided by FPL in response to OPC's seventh request to produce documents, #84.

(5) Reports of FPL Forensics Teams following hurricanes Katrina and Wilma (bates #215).

OPC reserves the right to supplement this list at a later time and to contest FPL's assertions that these documents warrant confidentiality.

Objections to Qualifications of Witnesses as Experts

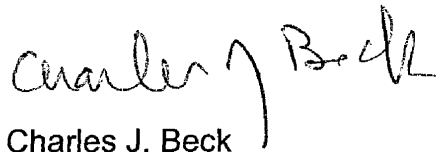
Citizens do not expect to challenge the qualifications of any witness.

Requirements of Order Establishing Procedure

Citizens believe that we have complied with the requirements of the order establishing procedure.

Respectfully submitted,

HAROLD MCLEAN
PUBLIC COUNSEL

A handwritten signature in cursive script that reads "Charles J. Beck".

Charles J. Beck
Deputy Public Counsel
Fla. Bar No. 217281

Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street
Room 812
Tallahassee, FL 32399-1400

(850) 488-9330

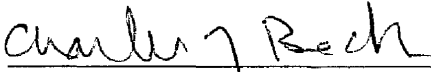
Attorney for Florida's Citizens

DOCKET NO. 060038-EI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail or hand-delivery to the following parties on this 10th day of April, 2006.


Charles J. Beck

Mary Anne Helton
Cochran Keating
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Patrick M. Bryan, Esquire
Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408-0420

Bill Feaster, Manager
Regulatory Affairs
Florida Power & Light Co.
215 S. Monroe Street
Suite 810
Tallahassee, FL 32301

John W. McWhirter, Jr., Esquire
McWhirter Law Firm
400 North Tampa Street, Ste. 2450
Tampa, FL 33602

Timothy J. Perry, Esquire
McWhirter Law Firm
117 S. Gadsden Street
Tallahassee, FL 32301

Robert Scheffel Wright, Esq.
John T. LaVia, III
Young van Assenderp, P.A.
225 South Adams Street, Suite 200
Tallahassee, FL 32301

Michael B. Twomey
Post Office Box 5256
Tallahassee, FL 32314-5256

Mr. Bill Walker
Vice President, Regulatory Affairs
Florida Power & Light Company
215 S. Monroe Street, Suite 810
Tallahassee, FL 32301-1859

Tim Devlin
Director of Economic Regulation
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Jack Leon
Senior attorney
9250 W. Flagler St., Suite 6514
Miami, FL 33174

Lieutenant Colonel Karen White
Captain Damund Williams
AFCESA/ULT
139 Barnes Drive
Tyndall Air Force Base, Florida 32403

Christopher M. Kise
Jack Shreve
Office of the Attorney General
The Capitol – PL01
Tallahassee, Florida 32399-1050