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Subject: Electronic Filing for Docket No. 060038-EI / FPL's Prehearing Statement
Attachments: FPL's Prehearing Statement.final.4.10.06.doc

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FPL's Prehearing
Statement.fn...

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 060038-EI - Petition for issuance of a storm recovery financing order, by Florida Power & Light Company

c. Document being filed on behalf of Florida Power & Light Company.

d. There are a total of 40 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Prehearing Statement.

(See attached file: FPL's Prehearing Statement.final.4.10.06.doc)

Thank you for your attention and cooperation to this request.

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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's) Docket No. 060038-EI
Petition for Issuance of a Storm Recovery) Filed: April 10, 2006
Financing Order)

FLORIDA POWER & LIGHT COMPANY'S PREHEARING STATEMENT

Florida Power & Light Company ("FPL" or the "Company"), pursuant to Order No. PSC-06-0069-PCO-EI, files with the Florida Public Service Commission (the "FPSC" or the "Commission"), its Prehearing Statement in connection with its petition for authority to recover prudently incurred storm restoration costs related to the 2004 storm season that exceed the storm reserve balance, and states:

I. FPL WITNESSES

A. Direct Testimony:

Mr. Moray P. Dewhurst
Senior Vice President and Chief Financial
Officer
Florida Power & Light Company
(Direct)

Presents and evaluates alternative methods to fund the existing Storm Reserve deficit and future storm restoration activities, supports the Petition for Financing Order requesting approval of the proposed issuance of bonds, which is FPL's primary recommendation requested in this proceeding, and if not approved, supports FPL's alternative recommendation requested in this proceeding; provides an overview of the Company's proposed securitization transaction; provides an estimate of transaction costs, both upfront and ongoing.

Ms. Geisha J. Williams
Vice President, Distribution
Florida Power & Light Company
(Direct)

Provides an overview of FPL's emergency preparedness plans and processes; provides details on the 2005 hurricanes impacting FPL's service territory, FPL's response to

these storms, and the associated costs of restoring service to FPL's customers and restoring FPL's facilities to pre-storm conditions; discusses factors contributing to FPL's overall successful performance in safely restoring service to the greatest number of customers in the least amount of time, and in these ways supports the reasonableness and prudence of the storm restoration costs for which FPL is seeking approval.

Dr. Richard E. Brown
Senior Principal Consultant
KEMA, Inc.
(Direct)

Presents the results of KEMA, Inc.'s independent engineering examination of the performance of FPL's facilities during Hurricane Wilma, which concludes that the power delivery system of FPL is designed to meet or exceed all required safety standards and, during Wilma, performed as expected and in accordance with FPL standards. Describes assessment of standards, quality systems, maintenance practices, transmission performance, substation performance and distribution performance supporting KEMA's conclusions. Presents a review of the strength of Wilma by an independent hurricane expert.

Mr. Mark Warner
Vice President of Nuclear Operations Support
Florida Power & Light Company
(Direct)

Describes the impact of the 2005 storm season on FPL's St. Lucie and Turkey Point nuclear plant sites; addresses the preparation required for the potential onset of hurricanes and tropical storms at the St. Lucie and Turkey Point nuclear sites, and the damage sustained from Hurricane Wilma at these two nuclear sites; also discusses the cost and expected insurance recovery associated with the hurricane-related damage.

Mr. K. Michael Davis
Vice President,
Controller and Chief Accounting Officer
Florida Power & Light Company
(Direct)

Discusses FPL's accounting treatment for the storm costs in the Storm Damage Reserve; discusses the amount charged to the storm damage reserve and what FPL expected the reserve deficiency to be as of

July 31, 2006; discusses how FPL's treatment is consistent with the Uniform System of Accounts, Commission rules, Order No. PSC-95-0264-FOF-EI, issued February 27, 1995 in Docket No. 930405-EI and the terms and conditions of the settlement agreement approved in Order No. PSC 05-0902-S-EI in Docket Nos. 05-0045-EI, 050188-EI; discusses the appropriate mechanism and the appropriate time frame for recovery of the Storm Reserve Deficit and establishment of a funded storm reserve.

Mr. Steven P. Harris
Vice President
ABS Consulting, Inc.
(Direct)

Presents the results of ABS Consulting's independent analyses of risk of uninsured loss to FPL's transmission and distribution system; presents storm loss analysis, solvency analysis of reserve funding alternatives, and a comparison of protection afforded by a \$650 million Initial Reserve Balance compared with alternative reserve balances in the event of a single SSI Category 4 storm landfall.

Mr. Wayne Olson
Managing Director
Asset Backed Capital Markets Group
Credit Suisse Securities (USA) LLC
(Direct)

Provides an overview of the securitization process; describes the structure of FPL's proposed storm-recovery bond offering; explains how the structuring and pricing of the storm-recovery bonds are designed to reasonably be expected to significantly mitigate rate impacts to customers as compared with alternative methods of financing or recovering storm-recovery costs and storm-recovery reserve; explains the role of transaction parties, such as the services and the trustee; explains certain upfront bond issuance costs; discusses primary rating agency criteria for the storm recovery bonds to obtain triple-A ratings; describes the proposed pre-issuance process; and provides a debt service schedule for the bonds based on current market conditions and a levelized Storm Charge.

Dr. Leonardo E. Green
Manager of Load Forecasting
Florida Power & Light Company
(Direct)

Describes FPL's energy sales forecast used in this docket to develop bond amortization schedules and the Storm Charge recovery mechanism. Explains how the forecast was developed and why it is a reasonable forecast. Describes methodology used to calculate energy sales not achieved due to the hurricanes in 2005, as well as the estimated megawatthour (MWH) levels not realized.

Dr. Rosemary Morley
Rate Development Manager
Florida Power & Light Company
(Direct)

Outlines FPL's proposed Storm Charge tariff for recovering the storm-related revenue requirements; describes how the storm charge factors by rate class are developed; discusses the true-up process for preventing any over- or under-recovery of the Storm Reserve Deficit; describes the rate mitigation effects of FPL's primary recommendation of securitization.

B. Rebuttal Testimony

Dr. Richard E. Brown
Senior Principal Consultant
KEMA, Inc.
(Rebuttal)

Explains why FPL actions were reasonable and prudent with respect to the Conservation-Corbett 500 kV line, the distribution pole inspection and vegetation management programs, and responds to specific OPC criticisms of those matters.

Barbara A. Jaindl
Director of Transmission
Florida Power & Light Company
(Rebuttal)

Provides details that support the reasonableness and prudence of FPL's inspection, maintenance and replacement programs for transmission facilities, especially with respect to the Conservation-Corbett 500 kV line, the Alva-Corbett 230 kV line, and the 69 kV line on the Herbert Hoover dike of Lake Okeechobee. Explains the reasonableness of FPL's substation landscaping storm repair costs.

Ms. Geisha J. Williams
Vice President, Distribution
Florida Power & Light Company
(Rebuttal)

Supports the prudence of FPL's pole inspection and vegetation management programs, and responds to OPC's claimed disallowances of pole and conductor storm

restoration costs, and other proposed adjustments to FPL's storm restoration costs.

Dr. Leonardo E. Green
Manager of Load Forecasting
Florida Power & Light Company
(Rebuttal)

Demonstrates errors and omissions contained in OPC witness Larkin's claims concerning MWH levels not realized, and explains concept of billing cycles and unbilled energy sales, which was not taken into consideration by Mr. Larkin.

Mr. Mark Warner
Vice President of Nuclear Operations Support
Florida Power & Light Company
(Rebuttal)

Explains why \$21.5 million of 2004 storm recovery costs for St. Lucie nuclear plant site damage should remain in approved storm costs; explains that OPC's proposed \$2,490,800 adjustment to remove nuclear employee base salary costs is incorrect because such amounts were never included in the storm costs for which FPL seeks recovery; discusses OPC's proposed December 31, 2006 cut-off for charging storm costs; explains why nuclear plant storm preparation costs are properly included in storm costs.

Mr. Wayne Olson
Managing Director
Asset Backed Capital Markets Group
Credit Suisse Securities (USA) LLC
(Rebuttal)

Clarifies FPL's intent with respect to the draft financing order filed with its Petition and expectations regarding Commission oversight of the issuance process; describes "state of the art" use of financial advisors by commissions in this asset sector; discusses certain "best practices" proposed by Saber and questions whether they are needed or cost effective in light of current market conditions; describes concerns of the utilities with respect to certain proposed "best practices" related to incremental liability; recommends key elements of a successful securitization transaction.

Mr. Hugh Gower
Consultant and former Southeastern Area Director of the Public Utility and Telecommunications Practice for Arthur Andersen & Co.
(Rebuttal)

Explains methods of cost accounting used by businesses in general as well as by public utilities and comments on which are appropriate in dealing with storm events; explains why "incremental cost" method and adjustments OPC witnesses propose are

inconsistent with the fundamentals of accounting and violate the regulatory framework which underlies cost-based ratemaking; demonstrates that the 2005 storms caused adverse financial impacts to FPL (even though all restoration costs were excluded from earnings in reliance on regulatory precedents allowing for recovery), and how this conclusively shows that FPL's storm cost recovery method does not result in "double recovery."

Mr. K. Michael Davis
Vice President,
Controller and Chief Accounting Officer
Florida Power & Light Company
(Rebuttal)

Explains why the incremental cost approach advocated by OPC is inappropriate and should be not be adopted by the Commission in this proceeding; supports the Company's proposed methodology, the Actual Restoration Cost approach with an adjustment to remove capital costs; provides an exhibit listing adjustments FPL proposes to its 2004 and 2005 storm costs; and addresses adjustments proposed by OPC Witnesses DeRonne and Larkin to FPL's 2004 and 2005 storm costs.

Mr. Steven P. Harris
Vice President
ABS Consulting, Inc.
(Rebuttal)

Explains why the reserve levels recommended by OPC's and AARP's witness Mr. Stewart would be expected to give customers little protection from storm costs.

Mr. Moray P. Dewhurst
Senior Vice President and Chief Financial
Officer
Florida Power & Light Company
(Rebuttal)

Responds to proposals and assertions raised by Staff witness Jenkins, AARP/OPC witness Stewart, OPC witness Larkin, and Staff witnesses Fichera, Klein and Noel. Responds to claims that the Commission should override the 2005 rate agreement and require FPL to absorb up to 20% of its prudently incurred storm restoration costs; explains why Mr. Stewart's proposal of a \$150 to \$200 million storm reserve, compared with FPL's proposal of \$650 million, would be shortsighted and ultimately lead to greater rate volatility and

higher costs for customers. Addresses points raised by Mr. Fichera concerning the bond issuance process.

II. EXHIBITS

Exhibit	Description	Sponsoring Witness
MPD-1	Summary of Primary Recommendation	Moray P. Dewhurst
MPD-2	Summary of Alternative Recommendation	Moray P. Dewhurst
MPD-3	Estimated Up-front and On-Going Bond Issuance Costs	Moray P. Dewhurst
GJW-1	Hurricane Dennis Satellite Picture	Geisha J. Williams
GJW-2	Hurricane Katrina Satellite Picture	Geisha J. Williams
GJW-3	Hurricane Rita Satellite Picture	Geisha J. Williams
GJW-4	Hurricane Wilma Satellite Picture	Geisha J. Williams
GJW-5	2005 Storm Cost	Geisha J. Williams
GJW-6	FPL Storm Comparison - 2005 vs. 2004	Geisha J. Williams
REB-1	Technical Report: Post Hurricane Wilma Engineering Analysis	Richard E. Brown
MW-1	2005 Nuclear Storm Costs	Mark Warner
KMD-1	Rev. Req. for Primary Recommendation Rev. Req. for Alternative Recommendation	K. Michael Davis
KMD-2	Summary of Storm Costs	K. Michael Davis
KMD-3	Unrecovered 2004 Storm Recovery Costs	K. Michael Davis
KMD-4	Unrecovered 2005 Storm Recovery Costs	K. Michael Davis
KMD-5	Excerpts from July 19 Agenda	K. Michael Davis
KMD-6	2005 Power Generation Storm Costs	K. Michael Davis

KMD-7	2005 Other FPL Facilities	K. Michael Davis
KMD-8	Storm Charge True-Up Mechanism Form	K. Michael Davis
KMD-9	Accounting Entries to Record Storm Recovery Financing	K. Michael Davis
LEG-8	Total Average Customer Growth	Leonardo E. Green
SPH-1	Storm Loss Analysis	Steven P. Harris
SPH-2	Solvency analysis of Reserve Funding Alternatives	Steven P. Harris
SPH-3	Comparison of FPL T&D Damage from SSI-4 Storms at Landfalls with FPL Primary Recommendation; Initial and 5-year Reserve Balance Levels	Steven P. Harris
WO-01 to WO-04	Attached to Olson's direct testimony	Wayne Olson
WO-05	Form of Indenture	Wayne Olson
WO-06	Form of Sale Agreement	Wayne Olson
WO-07	Form of Servicing Agreement	Wayne Olson
WO-08	Form of Administration Agreement	Wayne Olson
WO-09	Form of LLC Agreement	Wayne Olson
WO-10	Form of Master Definitions	Wayne Olson
WO-11	Summary of Financing Documents	Wayne Olson
LEG-1	Total Average Customer Growth	Leonardo E. Green
LEG-2	Absolute Monthly Customer Growth	Leonardo E. Green
LEG-3	Net Energy for Load per Customer	Leonardo E. Green
LEG-4	Net Energy for Load	Leonardo E. Green
LEG-5	Florida Non-Agricultural Employment	Leonardo E. Green

LEG-6	Comparison of the U.S. & Florida Economy	Leonardo E. Green
LEG-7	U.S. Real Gross Domestic Product	Leonardo E. Green
LEG-8	Real Price of Electricity	Leonardo E. Green
LEG-9	Price Impact on Net Energy for Load Forecast	Leonardo E. Green
LEG-10	Summary of Impact of Hurricanes on Net Energy for Load	Leonardo E. Green
LEG-11	Impact of Hurricane Dennis on Net Energy for Load	Leonardo E. Green
LEG-12	Impact of Hurricane Katrina on Net Energy for Load	Leonardo E. Green
LEG-13	Impact of Hurricane Rita on Net Energy for Load	Leonardo E. Green
LEG-14	Impact of Hurricane Wilma on Net Energy for Load	Leonardo E. Green
RM-1	Separation of 2005 Storm Costs	Rosemary Morley
RM-2	Separation of Future Storm Costs	Rosemary Morley
RM-3	Allocation of 2004 Storm Costs	Rosemary Morley
RM-4	Allocation of 2005 Storm Costs	Rosemary Morley
RM-5	Allocation of Future Storm Costs	Rosemary Morley
RM-6	Allocation of Storm Charge	Rosemary Morley
RM-7	Proposed Storm Charge	Rosemary Morley
RM-8	Traditional Surcharge	Rosemary Morley
RM-9	Comparison of Charges	Rosemary Morley
RM-10	Sample Bill Calculations	Rosemary Morley

RM-11	Proposed Tariff Sheets	Rosemary Morley
RM-12	Revenue Calculation	Rosemary Morley
GJW-7	Non-Hurricane Pole-Related Outages	Geisha J. Williams
GJW-8	Benchmarking – Pole Replacements	Geisha J. Williams
GJW-9	2005 Updated Storm Cost	Geisha J. Williams
GJW-10	2005 Storm Follow-Up Work	Geisha J. Williams
LEG-15	2005 Total Energy Sales: Forecast Versus Actuals	Leonardo E. Green
MW-2	2004 Nuclear Estimate of Non-Insured Storm Damage	Mark Warner
MW-3	2005 Nuclear Storm Preparation Costs	Mark Warner
WO-12	Market Spreads 2000-2006	Wayne Olson
WO-13	Update to PSC of Wisconsin Study	Wayne Olson
HAG-1	Hawaii Case excerpt	Hugh A. Gower
HAG-2	Mr. Larkin Deposition excerpt	Hugh A. Gower
HAG-3	Florida Administrative Code excerpt	Hugh A. Gower
HAG-4	Mississippi River Fuel Corp. Case excerpt	Hugh A. Gower
HAG-5	Code of Federal Regulation excerpt	Hugh A. Gower
KMD-10	Net Operating Income Impact	K. Michael Davis
KMD-11	Proposed Adj to 2004 Storm Costs	K. Michael Davis
KMD-12	2004 Storm Costs	K. Michael Davis
KMD-13	Proposed Adj to 2005 Storm Costs	K. Michael Davis
KMD-14	Backfill, Catch-up, Payroll that Would Normally Be Charged To Capital and/or Clauses	K. Michael Davis

KMD-15	2005 Capital Storm Costs	K. Michael Davis
KMD-16	2005 Payroll Overheads	K. Michael Davis
KMD-17	Discovery	K. Michael Davis
KMD-18	FPL Response to 2005 Staff Audit Report	K. Michael Davis
SPH-4	NOAA Magazine	Steven P. Harris
SPH-5	Reserve Solvency Analysis Results Given \$147.1 Million Expected Annual Damage, \$200 million Initial Balance, No Accruals, No Recovery of Negative Reserve Balances	Steven P. Harris
SPH-6	Protection Afforded by \$200 Million Initial Reserve Balance Against Frequency Weighted Transmission & Distribution Damage from Single SSI-3 Storm Landfalls	Steven P. Harris
MPD-4	Stipulation and Settlement dated 8/22/05	Moray P. Dewhurst
MPD-5	McMillan testimony for Gulf Power	Moray P. Dewhurst
MPD-6	Commissioner Smitherman Memo (9/21/05)	Moray P. Dewhurst
MPD-7	CS1 HB 303	Moray P. Dewhurst
MPD-8	CS2 HB 303	Moray P. Dewhurst
MPD-9	Storm Recovery Bond Issuance Process	Moray P. Dewhurst
MPD-10	Saber Contract with FPSC	Moray P. Dewhurst

In addition to the above pre-filed exhibits, FPL reserves the right to utilize any exhibits introduced by any other party. FPL additionally reserves the right to introduce any additional exhibits necessary for rebuttal, cross-examination or impeachment at the final hearing.

III. STATEMENT OF BASIC POSITION

A. Storm Cost Recovery Regulatory Background

Utilities such as FPL are entitled to recover prudently incurred costs to provide electric service. Storm recovery costs are a cost of providing electric service in Florida. Windstorm insurance coverage, secured on behalf of customers and in the past included as a part of FPL's cost to provide electric service, has not been cost-effectively available since Hurricane Andrew in 1992. Storm recovery costs are not reflected in FPL's base rate charge.¹ Thus, storm-recovery costs must be recovered through means other than FPL's base rate charge.

Pursuant to prior Commission orders and consistent with Rule 25-6.0143, Florida Administrative Code, FPL has established a storm and property insurance reserve (Account No. 228.1) ("Reserve") in amounts that were intended to be sufficient to cover, among other things, storm-recovery costs associated with most but not all storm seasons.

Consistent with past Commission policy and practice, in cases of extreme weather and restoration costs, a special assessment or surcharge is an appropriate means to recover the cost of storm restoration in excess of the Reserve. A long period of relatively mild hurricane seasons allowed the Reserve to grow to \$354 million prior to being depleted as a result of the unprecedented 2004 storm season, leaving the Company's Reserve with a large deficit to recover through a special assessment.

Over the years, the Commission periodically has reviewed the levels of the target reserve amount and the annual accrual and, in some instances, has increased those amounts. In 1998, the Commission explicitly considered the adequacy of the \$20.3 million annual accrual then in effect as well as the target amount of the storm damage reserve. In consideration of the existing Reserve balance at the time, among other factors, the Commission concluded that no changes in those amounts were needed at that time. However, consistent with the Post-Andrew regulatory framework, the Commission acknowledged that:

"[i]n the event FPL experiences catastrophic losses, it is not unreasonable or unanticipated that the reserve could reach a negative balance.... The December 1997 balance of \$251.3 million, is, we believe, sufficient to protect against most emergencies. In cases of catastrophic loss, FPL continues to be able to petition the Commission for emergency relief, as reflected in Order No. PSC-95-1588-FOF."

In re: Petition for authority to increase annual storm fund accrual commencing January 1, 1997 to \$35 million by Florida Power & Light Company, Docket No. 971237-EI, Order No. PSC-98-0953-FOF-EI, at 3 (issued July 14, 1998). The Commission also affirmed that "the costs of

¹ Prior to the Stipulation and Settlement Agreement approved by the Commission in Docket No. 050045-EI, \$20.3 million, a relatively small portion of the expected annual cost of storm restoration, was reflected in the Company's base rates.

storm damage incurred over and above the balance in the reserve and the costs of the use of the lines of credit would still have to be recovered from ratepayers.” *Id.* (emphasis added).

The Commission’s approach is entirely consistent with the observation that the costs of restoring electric service, fundamentally, are a cost of providing electric service in Florida, and therefore are legitimately recoverable from customers under basic principles of regulation. They are not foreseeable “business risks.” FPL does not now recover (and has not since Andrew recovered) through base rates the full expected costs of restoring service after storms. Nor does FPL recover through base rates the amounts that would be necessary to compensate for the risk capital that would need to be supplied were investors to assume an insurance function. That is because the Commission has determined that the current, alternate regulatory framework is a less costly means of attaining the same end. An integral part of that framework is the ability of the utility to recover prudently incurred costs in excess of whatever Storm Damage Reserve balance happens to exist at the precise moment that hurricanes strike.

B. The 2004 Storm Cost Proceeding and 2005 Rate Settlement Agreement

Pursuant to FPSC Order No. PSC-05-0937-FOF-EI, issued September 21, 2005, in Docket 041291-EI, FPL’s prudently incurred 2004 storm season costs in excess of the Reserve currently are being recovered through a monthly storm recovery surcharge equal to \$1.65 for a 1000 kWh residential bill (“2004 Storm Restoration Surcharge”).

In its base rate proceeding last year in Docket No. 050045-EI, FPL proposed to increase base rates by an amount sufficient to cover the expected average annual cost of storm restoration plus an amount to replenish the Reserve over a reasonable period of time. The parties to the Stipulation and Settlement Agreement in Docket No. 050045-EI (“Settlement Agreement”) elected instead to hold base rates constant by providing for the recovery of all such costs outside of the Company’s base rates. Replenishment of the Reserve and recovery of the cost of restoring power in the wake of storms was to be accomplished through means of a new financing vehicle approved by the Florida Legislature during its 2005 session and codified in Section 366.8260, Florida Statutes (2005), and/or through the more conventional mechanism of a special assessment or surcharge.

In approving the Settlement Agreement, however, the Commission expressed concern about being left without a more definite course of action to replenish the Reserve and strongly encouraged the Company to propose a plan at the earliest opportunity. FPL therefore filed its petition in this proceeding in response to its commitment to the Commission to pursue a plan to replenish its Reserve within six months of the Commission’s approval of the Settlement Agreement. *See* Order No. PSC-05-0902-S-EI, Docket Nos. 050045-EI, 050188-EI (issued September 14, 2005), at p. 5.

C. The 2005 Storm Season and FPL’s Restoration Work

FPL and its customers were subjected to another extremely destructive hurricane season in 2005. During 2005, FPL and its customers were affected by four hurricanes – Dennis,

Katrina, Rita and Wilma. All four of the hurricanes impacted the most densely populated areas in FPL's service territory, Palm Beach, Broward and Miami-Dade counties, where 60% of FPL's customers reside. Hurricane Katrina made landfall near the Miami-Dade and Broward county line. Hurricane Wilma made landfall on the southwest coast of Florida and exited near Palm Beach, significantly impacting Palm Beach, Broward and Miami-Dade counties and causing more outages for FPL than any other previous storm. In addition to the damage to FPL's infrastructure, Hurricane Wilma caused significant damages to the communities that the Company serves. Hurricane Wilma was the worst storm to impact Miami since August 1992, when Hurricane Andrew caused more than \$25 billion in damage. The American Red Cross also has reported that over 27,000 dwellings were destroyed or rendered temporarily unlivable, an indication of the destruction caused by Hurricane Wilma. Hurricanes Dennis and Rita, while not making landfall in FPL's territory, traveled near enough for their outer bands to cause significant outages, particularly in Miami-Dade and Broward counties.

Of the four storms impacting FPL's service territory last year, the two storms inflicting the vast majority of damage to FPL's system in 2005 occurred subsequent to execution of the Settlement Agreement. Hurricane Wilma, a massive storm and the most destructive event to FPL's service territory of the season, swept across the most heavily populated areas within FPL's service territory and resulted in widespread damage to property and infrastructure, including huge portions of FPL's transmission and distribution system. In the heavily populated counties of Miami-Dade, Broward, and Palm Beach, 99% of FPL's customers were without power once the storm passed. Unlike prior storms, Hurricane Wilma inflicted damage not just to distribution systems, but to transmission structures and substations throughout FPL's service territory. To repair the damage and restore service to more than 3.2 million customers in 21 counties, over 19,000 restoration workers, including approximately 9,200 foreign utility and other contractor personnel, from 36 states and Canada were deployed by FPL. A restoration team of this size had never before been assembled in FPL's 80 year history.

FPL's planning and execution before, during and after the 2005 storms was focused upon safely restoring the greatest number of customers in the least amount of time to return the communities the Company serves to normalcy. For the four 2005 storms, approximately 5.3 million customers required power restoration. For Hurricanes Dennis and Rita, customers were 100% restored within three and two days, respectively. For Hurricane Katrina, 77% of the customers affected were restored in three days, 95% in five days and 100% in eight days. For Hurricane Wilma, FPL restored service to over two million customers, or 65% of all affected customers by the fifth day, and 100% were restored by the eighteenth day. The high percentages accomplished in the first few days in each storm result from FPL's consistently applied restoration strategy – to restore devices that serve the largest number of customers first. FPL further refined its processes and effectively managed field operations, while acquiring an extraordinary number of workers and managing many staging sites. As a result, FPL restored service to its customers and repaired its facilities in an expeditious and prudent manner. FPL submits that its 2005 storm-recovery, described more fully in the Company's supporting testimony, are reasonable and prudent, "with reference to the general public interest in, and the scope of effort required to provide, the safe and expeditious restoration of electric service", as provided for in Section 366.8260(2)(b)1.b, Florida Statutes.

D. FPL's 2005 Storm Costs and Total Storm Reserve Deficit

As a result of the devastating impact of the 2005 storm season, in addition to the need to replenish the Reserve to a reasonable level for future storm seasons, FPL and its customers are left with an even larger deficit in the Reserve and a more urgent need to remedy the situation in anticipation of yet another potentially active storm season. Total estimated storm-recovery costs for 2005 are \$906.4 million, including \$721.7 million due to Hurricane Wilma, increasing the Reserve deficiency to a level of approximately \$816 million and leaving a deficit balance in the Reserve in excess of \$1.1 billion.

E. FPL's Request for Recovery and for a Storm Recovery Financing Order

Historically, there have been periods of higher and lower hurricane activity. A growing body of climatological evidence suggests that the Atlantic basin has entered a more active period for hurricane formation. If true, an adequate and timely replenished Reserve is even more critical to meet the needs of another potentially active storm season in 2006.

As contemplated by Section 366.8260(2)(b)1.b., FPL requests that the Commission approve recovery of FPL's prudently incurred storm-recovery costs related to the 2005 storm season. Such recovery will enable FPL to continue to fulfill its statutory obligation to serve its customers by safely and expeditiously restoring power in the event of storms, with FPL being timely reimbursed for its reasonable and prudently incurred storm-related costs. Further, such approval will reduce regulatory uncertainty associated with storm-related expenditures.

FPL requests that the Commission issue a Financing Order substantially in the form submitted by FPL with its Petition to implement storm-recovery financing as provided for in Section 366.8260. Specifically, FPL requests that the Commission approve the issuance of storm-recovery bonds in the amount of up to \$1,050 million, enabling: (i) recovery of the remaining unrecovered balance of the 2004 storm costs; (ii) recovery of the 2005 prudently incurred storm costs; (iii) replenishment of the Reserve to a level of approximately \$650 million; and (iv) recovery of the upfront bond issuance costs. Bonds are issued for the after-tax value of storm restoration costs to recognize the tax benefit received when storm restoration costs are deducted for income tax purposes. Thus, the \$1,039 (approximately) million of bond proceeds available after the payment of upfront bond issuance costs, provides approximately \$638 million to reimburse the Company for unrecovered storm costs and approximately \$400 million to replenish the fund (the after-tax equivalent of a \$650 million Reserve).

In order to facilitate review of the matters presented in the Petition and to help ensure that the requisite elements needed to satisfy rating agency conditions, obtain favorable tax treatment, and otherwise ensure the benefits associated with the issuance of storm-recovery bonds, FPL submitted a proposed form of financing order as Exhibit B to its Petition. FPL requests issuance of the Financing Order substantially in the form proposed.

F. The Effects of Granting FPL's Petition for a Financing Order

As explained in its Petition and FPL's supporting testimony, approving a Financing Order will enable FPL to cause the issuance of storm-recovery bonds to recover in a timely manner the storm-recovery costs that the Company incurred and advanced on behalf of its customers during the highly destructive back-to-back 2004 and 2005 storm seasons.

The unrecovered portion of the 2004 storm-recovery costs also would be included for recovery in the subject financing, as well as FPL's prudently incurred 2005 storm-recovery costs. Thus, the 2004 Storm Restoration Surcharge would be terminated on the effective date of the new cost recovery mechanism implemented pursuant to the Financing Order and upon issuance of the storm-recovery bonds.

Approving the requested Financing Order to recover storm-recovery costs incurred also will enable FPL to replenish the Reserve to a level of approximately \$650 million. Although a Reserve of \$650 million is not necessarily what the Company would project as an adequate Reserve level going forward, weighing a number of factors including (i) an expected average annual cost for windstorm losses of approximately \$73.7 million as determined by FPL's outside expert Steven P. Harris, (ii) the possibility that Florida is in the midst of a much more active hurricane period relative to average levels of activity over the much longer term, (iii) the potentially diminished availability of non-T&D property insurance, (iv) the impact of the recent severe and unprecedented storm seasons on customer bills in the near term, and (v) the opportunity to revisit this issue in future proceedings, establishing a Reserve level of approximately \$650 million is reasonable at this time.

The financing that would be implemented pursuant to Section 366.8260 would provide customers with the benefit of lower cost long-term financing than otherwise would be available. From the point of view of FPL's customers, an issuance of storm-recovery bonds as proposed can reasonably be expected to result in a lower, relatively constant monthly storm charge estimated at \$1.58 (based on recent market conditions) for a 1000 kWh residential bill over an approximate twelve-year period, in lieu of continuing the 2004 Storm Restoration Surcharge plus other surcharges that would be needed to recover prudently incurred 2005 storm-recovery costs and begin to replenish the Reserve over a reasonable period of time.

Moreover, assuming timely implementation of the proposed storm recovery financing, customers will have the benefit of a funded Reserve being immediately available during the peak of the 2006 storm season. The same cannot be said for the more traditional method of building the Reserve through base rate accruals and/or surcharges. In the past, FPL and its customers have had to experience extended periods of abnormally low storm activity for the base rate accrual to build the Reserve to a level that, nevertheless, proved to be well short of what was necessary to respond to the 2004 storm season, let alone back-to-back seasons of the magnitude experienced. The same also would be true of a surcharge unless it were sufficiently large to cover much more than just expected annual losses.

G. Storm Recovery Financing Order Cost Recovery Methods

The storm cost recovery described in FPL's Petition, and associated financing costs, would be paid for pursuant to an approximate twelve-year Storm Bond Repayment Charge that would be applied on a per kWh basis to all applicable customer classes. FPL customers would pay for any tax liabilities associated with the collection of the Storm Bond Repayment Charge through a similarly collected Storm Bond Tax Charge, to the extent such tax liabilities are not otherwise recovered from customers through other rates or charges. In connection with this proceeding, FPL submitted proposed Storm Bond Repayment Charge and Storm Bond Tax Charge tariff sheets that will closely approximate the final figures, barring significant changes in the terms of an issuance of storm-recovery bonds. The Storm Bond Repayment Charge and Storm Bond Tax Charge together comprise the "Storm Charge." The existing 2004 Storm Restoration Surcharge would be terminated simultaneously with the effective date of the proposed tariff sheets.

Advantages of proposed storm recovery financing include recovery of the 2005 storm-recovery costs and immediate replenishment of the Reserve by approximately \$650 million during the 2006 hurricane season. Customers also would pay a lower per kWh charge over a longer period of time relative to the 2004 Storm Restoration Surcharge which would be discontinued.

In light of the size of the current deficit and the need to begin to reduce the deficit and rebuild the Reserve to prepare for another potentially active storm season, the Company requests that as part of the Financing Order the Commission approve a surcharge to be applied to bills rendered on and after August 15, 2006 to recover the 2005 storm-restoration costs over approximately three years (or until the applicable revenue requirements have been recovered) in the event the issuance of storm-recovery bonds is delayed for any reason. The monthly impact to residential customers of this surcharge is currently estimated to be \$2.98 for a typical (1,000 kWh) residential bill based on current estimates for 2005 storm restoration costs. This surcharge would only be implemented in the event of a delay in issuing the storm-recovery bonds and it would be discontinued upon issuance. The amount of storm-recovery bonds issued would be adjusted to reflect collections pursuant to this surcharge, thus commensurately reducing the resulting Storm Charge.

Conversely, if the Commission declines to issue the Financing Order in substantially the form of Exhibit B, and/or does not grant the associated approvals for FPL to implement storm recovery financing under Section 366.8260, FPL requests in the alternative that the Commission approve a surcharge effective for bills rendered on and after June 15, 2006 in the amount and for such period as described more fully below to recover its prudently incurred storm costs during 2005 and also to begin to replenish the Reserve to a reasonable level. This surcharge would be in addition to the 2004 Storm Restoration Surcharge which would remain in effect. In connection with the recovery of such costs through a surcharge, FPL likewise requests approval of its prudently incurred storm-recovery costs related to the 2005 storm season. If the Commission approves FPL's alternative request, FPL would submit tariff sheets for administrative approval.

FPL requests that the Commission consider and approve the relief requested in its petition consistent with the 135-day timeline set forth in Section 366.8260(2)(b)1.b. in order that storm-recovery bonds may be issued, and that the purposes of this Petition be achieved. This would allow the establishment of a Reserve of approximately \$650 million, in preparation for the 2006 storm season or, alternatively, timely implementation of a surcharge to recover prudently incurred storm-recovery costs in connection with the 2005 storm season and to begin to replenish the Reserve.

FPL's requests in its petition do not address future storm damage in excess of the Reserve level, irrespective of the method approved by the Commission in this proceeding. FPL would petition the Commission at a later time for recovery of such excess amounts, consistent with past Commission policy and decisions, in the event that expenditures exceed the Reserve balance.

H. Summary Comment on Intervener Positions

The positions of OPC and others in this proceeding would have the Commission, on an ex post basis, ignore prior regulatory decisions, existing settlement agreements, and Company and investor expectations relative to the recovery of reasonable and prudent storm restoration costs. Instead, the Commission's decision in this proceeding should uphold those prior decisions, the existing Settlement Agreement, and affirm the expectations of the Company and its investors relative to the recovery of storm restoration costs. In so doing, the Commission should consider the impact that any decision may have on future settlements, avoid introducing into the current regulatory framework any element of "second guessing," and continue to ensure that the message communicated to utilities is one that encourages the prompt and safe restoration of electric service to customers, and consistent with the obvious public interest expressed by government at all levels in this past hurricane season. FPL's testimony summaries in Section I B above provide a brief overview of FPL's responses to interveners' positions.

IV. 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?

FPL: Yes. As of July 31, 2005, total storm costs of \$890.0 million were reflected in FPL's accounting records. Subsequent to this date, adjustments were made pursuant to the referenced order to remove \$91.9 million resulting in \$798.1 million of storm costs approved for recovery. As to estimated costs recorded as of July 31, 2005, for work not completed at that date, differences that would result in actual costs exceeding \$798.1 million will be absorbed by the Company. If

actual costs are less than \$798.1 million, FPL proposes that the difference be credited to the storm reserve. (Davis)

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

FPL: No. FPL has agreed to certain adjustments specified in Mr. Davis's rebuttal testimony, which should be addressed in a final true-up process. No adjustments other than those specified by Mr. Davis should be made. (Davis)

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?

FPL: No. There are some small differences between the deficiency balance and General Ledger due to rounding down the amount of 2004 storm costs approved for recovery, and differences between estimated and actual interest incurred and billed revenues as 2004 storm cost amounts have been recovered. Any differences remaining as of July 31, 2006 should be addressed as part of the final true-up. (Davis)

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

FPL: Yes. FPL has properly reflected the effect of deferred income taxes related to storm costs in its computation of storm costs to be securitized. (Davis)

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?

FPL: In accordance with fundamental principles of ratemaking, the Commission approved recovery by FPL of all costs of storm restoration that it deemed to be reasonably and prudently incurred. Nothing has changed that would alter the propriety of approving recovery of all reasonably and prudently incurred storm costs. (Dewhurst)

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

FPL: FPL recommends using the Actual Restoration Cost Method addressed in Docket No. 930405-EI with an adjustment to remove normal capital costs. It should be noted that FPL's proposed methodology yields the same result as the Modified Incremental Cost Approach approved by the Commission in the 2004 Storm Cost Recovery Order, Order No. PSC-05-0937-FOF-EI. (Davis, Gower)

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?

FPL: No. FPL has only charged storm-related costs to the storm reserve. Therefore, no adjustments should be made. (Williams, Davis)

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?

FPL: Yes. FPL correctly quantified and included all regular payroll as a direct result of the 2005 storms for exempt, non-exempt and bargaining personnel, subject to an adjustment to remove normal capital costs. Because FPL tracks payroll costs by exempt, non-exempt and bargaining unit personnel, FPL does not separately quantify amounts of “non-management employee labor payroll expense.” No adjustments should be made. (Davis)

ISSUE 9: Has FPL 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?

FPL: Yes. FPL correctly quantified and included all regular payroll as a direct result of the 2005 storms for exempt, non-exempt and bargaining personnel, subject to an adjustment to remove normal capital costs. Because FPL tracks payroll costs by exempt, non-exempt and bargaining unit personnel, FPL does not separately quantify amounts of “managerial employees payroll expense.” No adjustments should be made. (Davis)

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

FPL: Yes. No pre-storm training costs have been charged to the Storm Damage Reserve. No adjustments should be made. (Williams, Davis, Warner)

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?

FPL: Yes. FPL’s storm restoration costs only include the reasonable costs of removing vegetation as a result of the storms. Routine tree trimming is not charged to the storm reserve. No adjustments should be made. (Williams, Davis)

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?

FPL: Yes, the actual costs have been correctly quantified. No adjustments should be made. (Williams, Davis)

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?

FPL: Yes. FPL's has quantified and charged to the reserve call center incremental costs directly related to storm restoration. No adjustment should be made. (Davis)

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?

FPL: Yes. FPL has identified an adjustment of \$422,576 and recommends that this amount be included as part of the final true-up process. No adjustments should be made. (Williams, Davis)

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

FPL: Yes. Storms result in increases in uncollectible expense that FPL estimates based on incremental usage during the collection policy suspension period and incremental usage during the period where collection workers reduce the collection work backlog caused by the storms. No adjustment should be made. (Davis)

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?

FPL: Yes. FPL removed capital costs at "normal cost" and recorded them to rate base. What is left after adjusting for insurance recoveries represents the operations and maintenance expenses the Company has incurred to restore service to its customers. No adjustments should be made. (Davis)

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;

- b. Overtime incurred by Company personnel in work areas not directly affected by the storm due to loss of some personnel to storm assignments (backfill work);
- c. Costs associated with work that must be postponed due to the urgency of storm restoration and accomplished after the restoration was completed (catch-up work);
- d. Uncollectible accounts receivable write-offs directly related to the storms;
- 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;
- f. Costs that would have otherwise been charged to clauses; and
- g. Costs that would have otherwise been charged to capital.

FPL: If FPL's actual cost method, with the capital adjustment proposed by FPL, is approved by the Commission, it is unnecessary to separately take into account items (a) through (g).

If the Commission's Modified Incremental Cost Approach approved in the 2004 Storm Cost Recovery Order, No. PSC-05-0937-FOF-EI is approved by the Commission, then items (a) through (g) should be considered by the Commission. Specifically, as to (a) through (g) under the Modified Incremental Cost Approach in the 2004 Storm Cost Recovery order, there are various adjustments made to the amount of storm costs that can be recovered based on an assumption that such costs were already recovered through base rates. Under the Commission's 2004 Storm Cost Recovery Order approach, these various adjustments were offset by other incremental costs and by amounts not recovered through base rates, but only up to the amount of the adjustments. Amounts not recovered through base rates in excess of the adjustments were not recovered, causing the Company to suffer a loss in base revenues greater than the offset permitted by the Commission, which it was not permitted (nor did FPL request) to recover. It should be noted that the Modified Incremental Cost Approach approved in the 2004 Storm Cost Recovery Order, Order No. PSC-05-0937-FOF-EI would result in the same amount of storm recovery in this proceeding as FPL's actual cost method, with a normal capital adjustment. (Davis, Gower)

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

FPL: Yes. Only landscaping restoration costs necessary to comply with local land use and zoning requirements have been charged to the reserve. Failure to comply with code requirements would result in local jurisdictions initiating code enforcement actions. (Davis)

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

FPL: Yes. Litigation and settlement costs that are directly related to 2005 storm restoration have been charged to the storm reserve. But for the 2005 storms, these costs would have not been incurred. Further, FPL is legally obligated to indemnify and hold harmless foreign crews against claims which are brought as a result of their providing assistance to FPL. (Davis)

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?

FPL: Yes. FPL included contingencies in the 2005 storm cost estimate consistent with its standard project management practices. Contingencies formally recognize uncertainty concerning such factors as scope of work, material costs, contractor availability and pricing, or the length of time for completion. Any unused contingency will be reflected in the true-up process proposed by FPL. The only remaining contingency for 2005 storm costs is \$7,478,495. No adjustments should be made. (Davis)

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

FPL: Yes. There should be a final true-up when all work has been completed and all costs are known.

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?

FPL: Yes. An estimate has been appropriately charged to the reserve. A survey to determine the actual amount of non-FPL poles replaced by FPL in 2005 is expected to be completed in May 2006, based on which FPL will bill other entities. Reimbursements will result in appropriate credits to the storm reserve. FPL has estimated the amount to be billed. However, FPL recommends that the actual amount be reflected in the final true-up. (Williams, Davis)

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

FPL: No. All billings have been appropriately reconciled, verified, approved and accounted for in 2004 and 2005, including appropriate adjustments for overbillings determined through FPL's review processes. (Davis)

ISSUE 24: Has FPL charged any other costs to the storm reserve that should be expensed or capitalized?

FPL: No. (Davis)

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?

FPL: The appropriate amount of 2005 storm related costs to be charged against the storm reserve, subject to a determination of prudence in this proceeding, is \$816,016,000 (rounded) (provided on KMD-4).

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

FPL: Consistent with its approach to 2004 storm costs, FPL has charged the full amount of its storm costs to the reserve as of March 31, 2006, including an estimate for uncompleted work. When all work has been completed and final costs are known, a final true-up should be performed. (Davis, Williams)

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?

FPL: Yes. FPL's pole inspection and maintenance program was reasonable, and produced excellent results. For example, because of FPL's programs, pole related outages during non-storm events have been negligible for over a decade, contributing to approximately 0.1% of all outages annually. Pole performance during the 2004 and 2005 storm seasons also shows that FPL's pole infrastructure maintenance program is reasonable, and has produced excellent results. Even though FPL's entire pole infrastructure has been impacted by one or more of the seven hurricanes that affected FPL's service territory in the last two years, FPL has had to replace less than 1% of its poles in each of those years. (Williams, Brown, Jaindl)

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?

FPL: Yes. The reasonableness of FPL's approach to managing vegetation is supported by excellent vegetation management operating results demonstrating improved performance over time. For example, vegetation-related outages decreased 21% in 2004 and another 31% in 2005. As a result, vegetation-related outages in 2005 were 45% lower than in 2003 and 14% lower than in 1999. This

performance has been achieved despite some difficult challenges. Tree density (trees per mile) in FPL's service territory is twice the national average. Additionally, Florida's climate and twelve month growing season result in some of the highest tree re-growth rates in the nation. Moreover, FPL's vegetation management program is an important component of FPL's overall maintenance and reliability program, which has achieved excellent results. FPL's SAIDI, the most relevant reliability indicator for customers since it encompasses both the average frequency and average duration of outages, compares favorably within the state and ranks in the top quartile nationally – a level of performance that could only be achieved with an effective vegetation management program. (Williams, Brown, Jaindl)

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?

FPL: Yes. FPL reasonably inspected and maintained its distribution and transmission system consistent with good utility practices. These practices are extensive, and were detailed in the KEMA report submitted by Dr. Richard Brown in this proceeding, as well as in the testimony of Ms. Geisha Williams. (Williams, Brown, Jaindl)

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? (no witness assigned)

FPL: Yes. FPL's pole inspection and maintenance program was reasonable, and produced excellent results. FPL follows the National Electrical Safety Code with respect to pole loading, and no witness has testified to any alleged overloading of poles. For example, because of FPL's programs, pole related outages during non-storm event have been negligible for over a decade, contributing to approximately 0.1% of all outages annually. Pole performance during the 2004 and 2005 storm seasons also shows that FPL's pole infrastructure maintenance program is reasonable, and has produced excellent results. Even though FPL's entire pole infrastructure has been impacted by one or more of the 7 hurricanes that affected FPL's service territory in the last two years, FPL has had to replace less than 1% of its poles in each of those years. (Williams, Brown, Jaindl)

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?

FPL: Yes. The reasonableness of FPL's approach to managing vegetation is supported by excellent vegetation management operating results demonstrating improved performance over time. For example, tree-related outages (non-hurricane) in 2004 were 21% lower than 2003 and in 2005 were 31% lower than in 2004. In 2005, they were lower than any year in 5 previous years by 15%-45%. Furthermore, even though FPL's service territory consists of fast growing and dense vegetation, in 2004, FPL's vegetation outages, as a percent of total outages, is better than the national average (14% vs. 16%). Finally, during 1999-2005, overall reliability has improved and compares very favorably on a state and national basis, reinforcing the conclusion that vegetation management, which is an important part of overall electric reliability, has been reasonably managed. (Williams, Brown, Jaindl)

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?

FPL: Yes. FPL reasonably inspected and maintained its distribution and transmission system consistent with good utility practices. These practices are extensive, and were detailed in the KEMA report submitted by Dr. Richard Brown in this proceeding, as well as in the testimony of Ms. Geisha Williams. (Williams, Brown, Jaindl)

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

FPL: None. (Brown, Jaindl)

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?

FPL: Yes. Section 366.8260(1)(n) expressly provides that "[s]torm-recovery costs shall include the costs to finance any deficiency or deficiencies in storm-recovery reserves until such time as storm-recovery bonds are issued...." The jurisdictional amount of un-recovered pre-tax 2005 storm-recovery costs proposed by FPL includes monthly interest at the commercial paper rate, consistent with the method approved by the Commission in the 2004 Storm Cost Recovery Order, Order No. PSC-05-0937-FOF-EI. (Davis)

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?

FPL: No. FPL is regulated on a cost-of-service basis. Such costs are a part of the costs to provide electric service and are not recovered in base rates. Accordingly, all such costs should be recovered in this proceeding. Requiring FPL to bear a portion of reasonable and prudently-incurred costs would be inconsistent with Florida regulatory law and policy and would require the Commission to unwind the 2005 Stipulation and Settlement Agreement. (Dewhurst)

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?

FPL: The amount of reasonable and prudently incurred 2005 storm related costs that should be recovered from customers is \$816,016,000 (rounded) (provided on KMD-4) plus interest in accordance with Florida Statute Section 366.8260 in the amount of \$11,490,000 for a total of \$827,507,000. (Davis) (provided in KMD-4).

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?

FPL: FPL believes that establishing a storm damage reserve level of approximately \$650 million is reasonable at this time. (Dewhurst, Harris)

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?

FPL: FPL proposes a funded Reserve of \$650 million, and that the Reserve should be used for all of the purposes provided for in and consistent with Rule 25-6.0143, Florida Administrative Code for Account No. 228.1, Accumulated Provision for Property Insurance. (Dewhurst, Davis)

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?

FPL: Yes. A primary benefit of storm-recovery bonds is the ability to immediately replenish the Reserve and to “smooth out” the rate impact of an

extreme sub-period of storm activity, making it a useful tool for recovery of existing deficits and replenishment of the reserve. (Dewhurst, Morley, Harris).

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?

FPL: Yes. FPL anticipates receiving an opinion of qualified and experienced counsel that this is the case prior to the issuance of bonds. (Dewhurst)

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?

FPL: FPL's primary recommendation is that the unamortized balance of 2004 storm costs be added to any amounts to be securitized, so as to enhance the rate impact "smoothing" benefit of issuing bonds. (Dewhurst, Morley, Olson)

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

FPL: The total amount of storm-related costs proposed for storm-recovery financing is \$1.7 billion, which includes the proposed \$650 million replenishment of the Reserve. (Dewhurst, Davis) (provided on Document No. KMD-2)

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?

FPL: The total amount of storm-related costs proposed for recovery through a traditional surcharge or other form of recovery is \$1.7 billion, which includes the proposed \$650 million replenishment of the Reserve. If the 2004 Storm Surcharge is continued, the recovery amount in this proceeding should be reduced accordingly. (Dewhurst, Davis)

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:

- a. The amount approved for recovery; and**
- b. The cost allocation to the rate classes**

FPL: In the event that the Commission decides not to approve the requested storm-cost financing, the Commission should grant FPL's alternative request, as detailed in Dr. Rosemary Morley's testimony. (Dewhurst, Davis). If the alternative request is approved, then the allocation of costs to the rate classes should be consistent with the manner in which equivalent costs were treated in the last filed cost of service study as provided by FPL in Document Nos. RM-4 and RM-05. (Morley)

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?

FPL: No adjustment is necessary, because FPL's proposal reflects reduction of the storm-recovery financing amount for the federal and state benefits at the statutory tax rate of 38.575% to reflect all benefits related to the storm-recovery costs. (Davis)

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

FPL: Yes. Section 366.8260(1)(e)(1) defines "financing costs" to include "any income taxes resulting from the collection of storm-recovery charges in any such case whether paid, payable, or accrued. (Davis)

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?

FPL: Yes. Recovery of taxes is provided for in Section 366.8260, Florida Statutes, and is an integral part of recovery of storm costs. (Davis, Olson)

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?

FPL: No. Under the servicing agreement, FPL commits to service the storm recovery property in material compliance with applicable law and regulations and using the same degree of care and diligence that it exercise with respect to the collection of its other charges. FPL's application and the proposed form of servicing agreement prohibits FPL from resigning as servicer unless FPL determines that it can no longer legally perform its services functions. FPL's billing and collection functions are subject to the regulatory oversight of the Commission, including the power of the Commission under Section 366.8260(15) of the Florida Statutes to subject FPL to "such penalties or remedies as the Commission determines are necessary." (Dewhurst)

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

FPL: FPL does not believe that this would ever be necessary, but in such unlikely event the PSC would have available all power and remedies available to it under the Florida Statutes and the PSC's regulations. (Dewhurst)

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

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as the initial servicer should be paid an annualized amount equal to 0.05% of the initial principal amount of the storm-recovery bonds. This rate is at the lower end of a range of such fees that have been approved in other utility securitizations, and attempting to track actual costs likely would not be cost effective. (Dewhurst, Olson)

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

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as servicer should be permitted to recover the annual fees paid by the SPE to FPL under the servicing agreement, because requiring FPL to identify and account for these costs separately is likely to be more costly than any likely savings to the customer might be worth. If FPL is required to identify and account for actual costs, any excess of servicing fees collected over costs incurred should be credited to the storm damage reserve and any shortfall should be withdrawn from the storm damage reserve. (Dewhurst, Olson)

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

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as Administrator should be paid an annual fee of \$125,000 plus expenses. This amount is reasonable and comparable to the administration fees paid in similar transactions. (Dewhurst, Olson)

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

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as administrator should be permitted to recover the annual fees paid by the SPE to FPL under the administration agreement, because requiring FPL to identify and account for these costs separately is likely to be more costly than any likely savings to the customer

might be worth. If FPL is required to identify and account for actual costs, any excess of administration fees collected over costs incurred should be credited to the storm damage reserve and any shortfall should be withdrawn from the storm damage. (Dewhurst, Olson)

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

FPL: FPL proposes to remit funds collected from customers to the SPE on a daily basis, pursuant to the terms of an agreement between FPL and the SPE. (Dewhurst, Olson)

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?

FPL: Upon repayment in full of the Storm Bonds and all related financing costs, any remaining amounts held by the SPE (exclusive of the amounts in the capital subaccount, representing the equity contribution, and any interest earnings thereon) should be remitted to FPL and added to the Reserve, or in the alternative, applied as a credit to customer rates. (Davis)

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

FPL: In accordance with Section 366.8260(2)(b)5., Florida Statutes, within 120 days after the bond issuance, FPL shall file supporting information on the actual upfront bond issuance costs. The Commission shall review such costs to determine compliance with Section 366.8260(2)(b)5., Florida Statutes; however, if FPL has selected the lowest cost qualified provider for bond issuance services as a result of competitive solicitation, FPL should be deemed to have satisfied the statutory standard. Actual upfront costs should also satisfy the statutory standard if they are substantiated by documentation and fall within the estimates submitted to Staff as part of the Preliminary Bond Structuring Information as described in FPLs proposed financing order. (Dewhurst, Olson)

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

FPL: FPL's testimony and exhibits provide support for the conclusion that FPL's estimated ongoing financing costs will be reasonable, and that they are consistent with similar rate reduction bond transactions. (Dewhurst, Davis, Olson)

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?

FPL: Yes, for the reasons explained with respect to Issue 56 above. (Dewhurst, Olson)

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

FPL: FPL's testimony and exhibits provide support for the conclusion that FPL's estimated ongoing financing costs will be reasonable, and that they are consistent with similar rate reduction bond transactions. (Dewhurst, Davis, Olson)

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

FPL: The bonds can be reasonably sold either through a competitive bidding process or a negotiated sale. The Company has not yet taken a position as to which method is preferable, because the decision is dependent upon factors such as issue size, complexity of issue, and current market conditions, which will be known with greater certainty at or near the time of issuance. (Dewhurst, Olson)

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?

FPL: FPL prepared with the assistance of its outside bond counsel and financial advisor a draft order for the Commission's consideration which it submitted as Exhibit B to the Petition in this proceeding. FPL believes that entering the Financing Order in substantially the form submitted will best enhance the marketability of the bonds and help achieve the lowest cost. (Dewhurst, Olson)

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

FPL: No. FPL has provided drafts of the major transaction documents in substantially final form with this filing for Commission review. In lieu of a filing and formal Commission approval subsequent to this proceeding, FPL proposes a pre-issuance process directed at providing the Commission and its Staff with assurance that any bond issuance is in full compliance with the Financing Order. (Dewhurst, Olson)

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

FPL: Yes. FPL believes that the proposed Staff Pre-Issuance Review process will enable the Commission, through its Staff, to ensure that any issuance of

bonds pursuant to the Financing Order is in compliance with that Order. (Dewhurst, Olson)

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?

FPL: Yes. FPL has provided drafts of the major transaction documents in substantially final form with this filing for Commission review. In lieu of a filing and formal Commission approval subsequent to this proceeding, FPL proposes a pre-issuance process directed at providing the Commission and its Staff with assurance that any bond issuance is in full compliance with the Financing Order. (Dewhurst, Olson)

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

FPL: Yes. The draft issuance advice letter will provide the most current and up-to-date information concerning the final terms and conditions that only becomes available as the launch date for a bond series becomes very near. (Dewhurst, Olson)

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

FPL: Yes. The Initial True-up letter as proposed by FPL will provide Staff, acting at the Commission's direction, information necessary to ensure that any proposed issuance complies with the Financing Order. (Dewhurst, Morley, Olson)

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?

FPL: FPL believes that by issuing a Financing Order in substantially form submitted by FPL as Exhibit B to the Petition, the Commission will ensure that the structure, marketing and pricing of the storm recovery bonds will be low cost and efficient with the lowest possible burden on FPL's customers. (Dewhurst, Olson)

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?

FPL: Yes. Issuance of storm-recovery bonds of the proposed structure, expected pricing and financing costs is reasonably expected to avoid or significantly mitigate rate impacts to customers as compared with alternative methods of recovery. (Dewhurst, Morley, Olson)

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?

FPL: Yes. In addition, under FPL's Staff Pre-Issuance Review Process, the specific terms and conditions of such a proposed structuring would be provided for Staff review for compliance with the Financing Order. (Olson)

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

FPL: Yes. In addition, under FPL's Staff Pre-Issuance Review Process, the specific terms and conditions of such a proposed structuring would be provided for Staff review for compliance with the Financing Order. (Olson)

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?

FPL: FPL believes that the flexibility provided for in the draft Financing Order submitted as Attachment B to the Petition provides for a reasonable measure of additional flexibility which would be exercised subject to the Staff Pre-Issuance Review Process proposed by the Company. (Olson)

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?

FPL: Yes. Establishment of a regulatory asset for the amount to replenish the Reserve is one of the accounting actions and entries needed to implement FPL's proposal, and FPL accordingly requests that the Commission establish such a related regulatory asset through the Financing Order. (Davis)

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?

FPL: Yes. Establishing 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 are accounting actions and entries reasonably necessary to implement FPL's proposal. (Davis)

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?

FPL: Yes. FPL prepared the draft order with the assistance of its outside bond counsel and financial advisor. FPL believes that entering the Financing Order in substantially the form submitted, including approval of the requested accounting treatment and establishment of regulatory assets, will best enhance the marketability of the bonds and help achieve a low, reasonable cost for customers. (Dewhurst, Olson)

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?

FPL: In the referenced circumstance, FPL believes that it would be reasonable for the Commission to consider reducing the aggregate amount of the bond issuance by establishing a somewhat smaller Reserve in the interest of mitigating rate impact. (Dewhurst)

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;
- b. The calculation of the surcharge;
- c. The cost allocation to the rate classes; and
- d. The surcharge's termination date.

FPL: Yes.

- a. If it becomes necessary to implement such a surcharge due to delay in the issuance of storm-recovery bonds, a new tariff would be proposed and submitted by FPL for administrative approval and calculated so as to recover the total amount of 2005 storm costs approved for recovery in the Financing Order over approximately three years. (Dewhurst)
- b. The charges by rate class should be determined by dividing each class's allocated costs by its kWh sales as provided by FPL in Document No. RM-8. (Morley).

- c. The allocation of costs to the rate classes should be consistent with the manner in which equivalent costs were treated in the last filed cost of service study as provided by FPL in Document No. RM-4. (Morley)
- d. The surcharge would be discontinued when the storm recovery bonds are issued. (Dewhurst, Morley)

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?

FPL: No adjustment is necessary. (Davis)

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?

FPL: The commission should authorize the transfer of the unamortized balance of the storm related costs subject to future recovery from the Storm Damage Reserve (Account 228.1) to a deferred Regulatory Asset (Account 182.3). The amount transferred should be amortized consistent with the amounts recovered as revenue through the authorized surcharge recovery factor. (Davis)

RATES

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

FPL: Yes. (Green)

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?

FPL: The allocation of costs to the rate classes should be consistent with the manner in which equivalent costs were treated in the last filed cost of service study as provided by FPL in Document Nos. RM-3, RM-4 and RM-5. (Morley)

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?

FPL: Twelve years. (Dewhurst, Olson)

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?

FPL: Yes, FPL's proposed mechanism is appropriate, consistent with the statute, and should be approved. (Davis)

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

FPL: At least every six months. (Davis)

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

FPL: FPL proposes to terminate the current Storm Restoration Surcharge concurrent with the effective date of the proposed Storm Charge. (Dewhurst, Morley)

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

FPL: FPL proposes to implement the Storm Charge and its components, the Storm Bond Repayment Charge and the Storm Bond Tax Charge, on the first meter reading day after the issuance of the storm recovery bonds. (Morley)

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

FPL: No. A separate line item is not required in order to support securitization, and has not been required with respect to the existing storm surcharge, however FPL would not object to adding an individual line item on the bill for the Storm Charge. (Morley)

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)

FPL: Yes.

ISSUE 88: Should this docket be closed?

FPL: Yes.

V. LEGAL ISSUES

FPL considers Issue 5 above issues of law.

VI. POLICY ISSUES

FPL considers Issues 37 and 38 above to be issues of policy.

VII. STIPULATED ISSUES

Issue 87 is stipulated. There are no other stipulated issues at this time.

VIII. PENDING MOTIONS

There are no pending motions at this time.

IX. PENDING REQUESTS FOR CONFIDENTIAL CLASSIFICATION

1. FPL's request for confidential classification of certain materials provided responsive to OPC fifth request of interrogatories question No. 108 - supplemental, and OPC ninth request for interrogatories question No. 178 – supplemental filed April 10, 2006;
2. FPL's request for confidential classification of certain materials provided responsive to OPC first request for production of documents questions Nos. 7, 21, & 22, OPC second request for production of documents question No. 26, OPC eight request for production of documents question No. 91, Staff's first request for production of documents questions Nos. 3, 24, 34, 35, & 36, and Staff fourth request for production of documents question No. 67 filed April 7, 2006;
3. FPL's request for confidential classification of certain materials provided responsive to certain information provided in connection with Staff storm damage cost recovery supplemental Audit No. 05-292-4-1 filed April 3, 2006;
4. FPL's request for confidential classification of certain materials provided responsive to OPC fourth request for production of documents question No. 70, OPC seventh request for production of documents question No. 83, and Staff first request for production of documents question No. 3 & 6 filed March 30, 2006;
5. FPL's request for confidential classification of certain materials provided in connection with storm damage cost recovery Audit No. 05-292-4-1 filed March 22, 2006;
6. FPL's request for confidential classification of certain materials related to the contract between FPL and KEMA filed February 24, 2006; and

7. FPL's request for confidential classification of certain information included in rebuttal testimony, filed April 10, 2006.

X. REQUIREMENTS OF THE PREHEARING ORDER THAT CANNOT BE MET

At this time, FPL is not aware of any requirements in the Order Establishing Procedure with which it cannot comply.

XI. OBJECTIONS TO WITNESSES' QUALIFICATIONS

At this time, FPL has no objections to a witness' qualifications as an expert.

Respectfully submitted this 10th day of April, 2006.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Prehearing Statement has been furnished by electronic mail and United States Mail on the 10th day of April, 2006, to the following:

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