

ORIGINAL

Matilda Sanders

From: Williams Damund E Capt AFCESA/ULT [Damund.Williams@tyndall.af.mil]
Sent: Monday, April 10, 2006 5:43 PM
To: Filings@psc.state.fl.us
Cc: Bryan_Anderson@fpl.com; Natalie_Smith@fpl.com; Patrick_Bryan@fpl.com; Wade_Litchfield@fpl.com; Charles Beck; christensen.patty@leg.state.fl.us; mcglathlin.joseph@leg.state.fl.us; jmcwhirter@mac-law.com; tperry@mac-law.com; Jennifer Brubaker; Rosanne Gervasi; Cochran Keating; miketwomey@talstar.com; damund.williams@tyndall.af.mil; karen.white@tyndall.af.mil; swright@yvlaw.net; Rhonda Dular
Subject: Docket No 060038 - EI; FEA Prehearing Statement
Attachments: FEA's Prehearing Statement of Issues and Positions .doc

1. Capt Damund E. Williams, AFLSA/JACL-ULT, 139 Barnes Drive, Suite 1, Tyndall AFB, FL 32403-5319, (850) 283-6350, damund.williams@tyndall.af.mil, is the person responsible for this electronic filing;
2. The filing is to be made in Docket 060038-EI;
3. The filing is made on behalf of the Federal Executive Agencies;
4. The total number of pages is 17; and
5. The attached document is the Federal Executive Agencies' Prehearing Statement of Issues and Positions.

<<FEA's Prehearing Statement of Issues and Positions .doc>>

Damund E. Williams

Damund E. Williams, Capt, USAF

Utility Litigation & Negotiation Attorney

AFLSA/JACL-ULT

139 Barnes Drive, Suite 1

Tyndall AFB, FL 32403-5319

Comm: (850) 283-6350 DSN: 523-6350

Fax: (850) 283-6219

CMP _____

COM 5

CTR _____

ECR _____

GCL _____

OPC _____

RCA _____

SCR _____

SGA _____

SEC 1

OTH _____

DOCUMENT NUMBER-DATE

03228 APR 11 08

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

THE FEDERAL EXECUTIVE AGENCIES'
PREHEARING STATEMENT OF ISSUES AND POSITIONS

The Federal Executive Agencies' (FEA), pursuant to Order No. PSC-06-0069-PCO-EI,
hereby files its Prehearing Statement of Issues and Positions.

A. APPEARANCES:

LT COL KAREN WHITE, AFCESA/ULT, 139 Barnes Drive, Suite 1, Tyndall AFB,
FL 32403-5319
and
CAPT DAMUND WILLIAMS, AFCESA.ULT, 139 Barnes Drive Suite 1 Tyndall AFB,
FL 32403-5319.

On Behalf of the Federal Executive Agencies.

B. WITNESSES:

None.

C. EXHIBITS:

None. However, FEA reserves the right to introduce exhibits during cross-examination.

D. STATEMENT OF BASIC POSITION:

In general FEA agrees with OPC on adjustments.

FEA supports the position of FIPUG regarding allocating cost between customer classes. FEA agrees with FIPUG that customers receiving service from transmission systems should not be charged for damages to the distribution system. FEA further concurs with FIPUG that the cost of service study FPL proposes to use to allocate cost was never approved by the Commission and, as such, is not the proper cost of service study to be considered in this matter, rather the last cost of service methodology filed and approved by the Commission in Docket No. 830465-EI is the proper cost of service methodology.

E. STATEMENT OF 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?

FEA: Agree with OPC.

Issue 2: Should the 2004 storm costs be adjusted for other items? If so, what is the appropriate adjustment? (ADDED BY OPC AT LAST MEETING)

FEA: Agree with OPC.

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? (MOVED TO THIS SECTION PER DISCUSSION AT LAST MEETING)

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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

FEA: Agree with FIPUG.

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? (“CHARGED TO REGULAR O&M OR” ADDED BY OPC AT LAST MEETING)

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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;

FEA: Agree with FIPUG.

- 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);

FEA: Agree with OPC.

- 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);

FEA: Agree with OPC.

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

FEA: Agree with OPC.

- 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;

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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

FEA: Agree with OPC.

Issue 19: Have lawsuit settlement charges been appropriately charged to the storm reserve

for 2005? If not, what adjustments should be made?

FEA: Agree with OPC.

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? (“PORTIONS OF ESTIMATED STORM” ADDED BY FPL AT LAST MEETING)

FEA: Agree with OPC.

Issue 21: Should FPL be required to true-up approved 2005 storm related costs? If so, how should this be accomplished? (ADDED BY OPC AT LAST MEETING)

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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

FEA: Agree with FIPUG.

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? (ADDED BY OPC AT LAST MEETING)

FEA: Agree with FIPUG.

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?

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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? (ADDED BY FRF AFTER LAST MEETING)

FEA: Agree with OPC.

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? (ADDED BY FRF AFTER LAST MEETING)

FEA: Agree with OPC.

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? (ADDED BY FRF AFTER LAST MEETING)

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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? (ADDED BY STAFF SINCE LAST MEETING)

FEA: Agree with FIPUG.

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?

FEA: Agree with FIPUG.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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?

FEA: Agree with Staff.

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? (SECOND SENTENCE REVISED PER DISCUSSION AT LAST MEETING)

FEA: Agree with Staff.

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?

FEA: Agree with FIPUG.

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

FEA: Agree with FIPUG.

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?

FEA: Agree with FIPUG.

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.

FEA: Agree with FIPUG.

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?

FEA: Agree with FIPUG.

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

FEA: Agree with FIPUG.

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?

FEA: Agree with FIPUG.

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?

FEA: Yes.

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

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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

FEA: Agree with FIPUG.

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

FEA: Agree with Staff.

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

FEA: Agree with FIPUG.

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

FEA: Agree with FIPUG.

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?

FEA: Agree with FIPUG.

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

appropriate?

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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?

FEA: Agree with Staff.

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:

FEA: Yes.

- a. The amount approved for recovery;

FEA: Agree with FIPUG.

- b. The calculation of the surcharge;

FEA: Agree with FIPUG.

- c. The cost allocation to the rate classes; and

FEA: Agree with FIPUG.

- d. The surcharge's termination date.

FEA: Agree with Staff.

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?

FEA: Agree with FIPUG.

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?

FEA: Agree with FIPUG.

RATES

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

FEA: Agree with OPC.

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?

FEA: Agree with FIPUG.

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?

FEA: Agree with OPC.

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?

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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

FEA: Agree with OPC.

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?

FEA: Yes.

Issue 88: Should this docket be closed?

FEA: No position.

F. STIPULATED ISSUES:

Issue 87.

G. PENDING MOTIONS OR OTHER MATTERS:

FEA has no pending motions or other matters.

H. PENDING REQUESTS OR CLAIMS OF CONFIDENTIALITY:

FEA has no pending confidentiality requests or claims.

I. OBJECTIONS TO WITNESS' QUALIFICATIONS AS AN EXPERT

None at this time.

J. COMPLIANCE WITH ORDER NO. PSC-05-0281-PCO-EI:

FEA is not aware of any requirements in the Order Establishing Procedure with which it cannot comply, and believes that it has complied with all applicable requirements of that Order.

s/ Karen White

KAREN WHITE, Lt Col USAF
Chief Air Force Utility Litigation Team
AZ Atty #016820

s/ Damund E. Williams

DAMUND E. WILLIAMS, Capt, USAF
Utility Litigation and Negotiation Attorney
AL Atty #ASB-9660-W54D

Attorneys for the Federal Executive Agencies

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by electronic mail or by United States First Class Mail this 10th day of April, 2006 to the following:

AARP (Twomey)
c/o Mike B. Twomey
P.O. Box 5256
Tallahassee, FL 32314-5256
Phone: 850-421-9530
FAX: 421-8543
Email: miketwomey@talstar.com

Florida Industrial Power Users Group (McWhirter)
John W. McWhirter, Jr.
c/o McWhirter Law Firm
400 North Tampa Street, Suite 2450
Tampa, FL 33602
Phone: 813-224-0866
FAX: 813-221-1854
Email: jmcwhirter@mac-law.com

Florida Power & Light Company
Litchfield/Anderson/Bryan/Smith
700 Universe Blvd.
Juno Beach, FL 33408-0420
Phone: (561) 691-7207
FAX: (561) 691-7135
Email: Wade_Litchfield@fpl.com

Florida Power & Light Company
Mr. Bill Walker
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859
Phone: (850) 521-3900
FAX: 521-3939

Florida Retail Federation
227 South Adams Street
Tallahassee, FL 32301
Phone: 850-222-4082
FAX: 222-4082

McWhirter Law Firm
Timothy J. Perry
117 S. Gadsden St.
Tallahassee, FL 32301
Phone: 850-222-2525
FAX: 222-5606
Email: tperry@mac-law.com

Office of Public Counsel
McLean/Beck/McGlothlin/Christensen
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, FL 32399-1400
Phone: 850-488-9330

Young Law Firm
R. Scheffel Wright/ John LaVia
225 South Adams Street, Suite 200
Tallahassee, FL 32301
Phone: 850-222-7206
FAX: 561-6834

s/ Damund E. Williams
DAMUND E. WILLIAMS, Capt, USAF
Utility Litigation and Negotiation Attorney
For Petitioner
AL Atty #ASB-9660-W54D