

State of Florida



# Public Service Commission


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

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**DATE:** December 12, 2019

**TO:** Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

**FROM:** Suzanne S. Brownless, Special Counsel, Office of the General Counsel 

**RE:** Docket No. 20190001-EI - Fuel and purchased power cost recovery clause with generating performance incentive factor.

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Please place the attached article from the CBS Miami News in the above docket file as correspondence.

SBr/lms  
Attachment

## Lisa Smith

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**From:** Suzanne Brownless  
**Sent:** Thursday, December 12, 2019 10:51 AM  
**To:** Lisa Smith  
**Subject:** FW: FPL machinations  
**Attachments:** Hurricane Irma Suit Against FPL To Continue – CBS Miami.pdf

Please prepare memo to put this on the correspondence side of the 20190001 docket. Thanks,

Suzanne Brownless  
Senior Attorney  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850  
Phone: (850) 413-6218  
FAX: (850) 413-6219  
Email: [sbrownle@psc.state.fl.us](mailto:sbrownle@psc.state.fl.us)

**From:** Beatrice Balboa [<mailto:beatricebalboa@gmail.com>]  
**Sent:** Thursday, December 12, 2019 10:40 AM  
**To:** Suzanne Brownless  
**Subject:** Re: FPL machinations

Thursday 12 December 2019

I was reading the latest news media regarding the ongoing lobbying issues and concerns surrounding Florida Power & Light (FPL) (attached documentation). Please continue to keep an extremely close eye regarding FPL machinations with these issues as FPL ratepayers should NOT be "footing the bill" on FPL and/or NextEra out-of-state investment strategies, solar power "monopolization", "tax accounting sleight of hands", safety violations, little to no storm hardening and "pollution" activities. FPL should be devoting all their energies in meeting and/or exceeding the 2017 National Electrical Safety Code® (NESC®) standards (which sets the ground rules and guidelines for practical safeguarding of utility workers and the public during the installation, operation, and maintenance of electric supply, communication lines and associated equipment) for storm hardening of the State of Florida electrical infrastructure that should have already been completed after Hurricane Andrew (1992), Hurricane Irma (2017) and now Hurricane Dorian (2019) with fee requests in the millions/billions of dollars. FPL should NOT be devoting all their energies requesting and lobbying for more storm hardening fees and rate increases as well as other "accounting shenanigans" activities.

I look forward to your offices taking the necessary actions to address hardworking taxpayers citizens' concerns from the City of Pompano Beach, Broward County, State of Florida.

Thank you for your time in this matter.

Sincerely,  
Beatrice Balboa  
1010 South Ocean Boulevard, Unit. 1008  
Pompano Beach, FL 33062-6631

# Hurricane Irma Suit Against FPL To Continue

December 11, 2019 at 4:11 pm Filed Under: FPL, Hollywood Hills, Local TV, Miami News

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TALLAHASSEE (CBSMiami/NSF) – An appeals court Wednesday declined to dismiss a lawsuit filed against Florida Power & Light by a former resident of a Broward County nursing home that was plunged into sweltering conditions after Hurricane Irma knocked out its air-conditioning system.

A three-judge panel of the 4th District Court of Appeal allowed the case to move forward against FPL, which supplied electricity to The Rehabilitation Center at Hollywood Hills.

Former resident Bernice Moultrie, who was 96 years old at the time of the 2017 hurricane and suffered heat-related injuries, filed the lawsuit last year against FPL and the nursing home.

The case alleged that negligence by FPL contributed to the lengthy outage of the air-conditioning system.

In seeking to dismiss the case, FPL contended that it was immune from lawsuits stemming from “acts of God” under a state-approved “tariff,” which sets out issues such as utility rates and service regulations.

“FPL argues that the rates approved by the tariff depend on FPL being afforded protection and that exposure to suits such as this — for power outages following a hurricane — would undermine the regulatory scheme and risk higher electricity rates for all Floridians,” the appeals court wrote in a footnote Wednesday.

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A Broward County circuit judge refused to dismiss the case against FPL, finding that the utility's argument about a limit on its liability requires "factual determinations."

The appeals court said it was not able to procedurally review the argument in such a situation.

"Here, the trial court concluded that dismissal of the complaint was not appropriate because FPL's claim that its tariff limits its liability requires factual determinations," said the ruling, written by appeals court Judge Cory Ciklin and joined by judges Robert Gross and Jeffrey Kuntz.

"Because FPL's claim of immunity turns on disputed facts... review is not available." Authorities have blamed the sweltering conditions for the deaths of residents, and the state moved quickly to shut down the facility.

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