

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: September 17, 2004

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

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

RE: Docket No. 041057-EI – Petition for approval to establish as regulatory asset any costs charged to Account No. 228.1 in excess of Storm Reserve, by Florida Power & Light Company.

AGENDA: 09/21/04 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\041057.RCM.DOC

Case Background

Florida Power & Light Company (FPL) filed its petition on September 9, 2004. FPL has requested that it be authorized to establish a regulatory asset for storm damage costs that exceed the \$345 million balance of the Storm Reserve. The costs to repair and restore FPL's system for the damages caused by Hurricane Charley and Hurricane Frances are expected to exceed the reserve balance. FPL is also seeking current authorization for the future recovery of reasonable and prudently incurred storm damage costs in excess of its Storm Reserve.

The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes, including Sections 366.04, 366.05, and 366.06, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve Florida Power & Light Company's (FPL) petition to establish a regulatory asset for storm damage costs in excess of its storm reserve?

Recommendation: No, the petition should be denied because it is both unnecessary and premature. FPL should record prudently incurred storm damage costs in Account No. 228.1, Accumulated Provision for Property Insurance, as required by Rules 25-6.0143(1) and 25-6.0143(4)(b), Florida Administrative Code. After the actual amount of the costs are known, FPL may then file a petition seeking an alternative accounting treatment for recovery of prudently incurred storm damage costs that exceed the Storm Reserve balance. (Slemkewicz)

Staff Analysis: FPL has filed its petition in anticipation that the uninsured damages from Hurricane Charley and Hurricane Frances will exceed its current Storm Reserve balance of approximately \$345 million. FPL's petition seeks Commission approval to establish a regulatory asset, presumably in Account No. 182.1, Extraordinary Property Losses, for an unknown amount of excess storm damage costs and without any specific proposal concerning the amortization of the regulatory asset. Per the Uniform System of Accounts prescribed by this Commission in Rule 25-6.014, Florida Administrative Code, a request to establish such a regulatory asset in Account No. 182.1 must be accompanied by a statement giving a complete explanation with respect to the items which it is proposed to include in the regulatory asset, the period over which, and the accounts to which it is proposed to write off the charges, and other pertinent information. Nor can Account No. 182.3, Other Regulatory Assets, be utilized in this instance. The use of Account No. 182.3 is restricted for deferring costs that would have been included in net income determinations in the current period.

Per Rule 25-6.0143(4)(b), Florida Administrative Code, entitled "Use of Accumulated Provision Accounts 228.1, 228.2 and 228.4", charges are to be made to the accumulated account regardless of the balance in the account. It was recognized by the Commission that there could be times when the reserve could have a negative balance in Order No. PSC-96-0023-FOF-EI, issued January 8, 1996, in Docket No. 951433-EI, In Re: Petition for approval of special accounting treatment of expenditures related to Hurricane Erin and Hurricane Opal by Gulf Power Company. Because all of the charges are made to the accumulated reserve regardless of the balance, FPL's expenses, and hence net income, are unaffected by the storm damage costs that exceed the storm reserve balance. In other words, this treatment defers the negative balance for recovery in future periods through the normal storm reserve accrual and/or an alternative recovery mechanism. It is unnecessary to create a separate regulatory asset to do this because allowing a negative balance to be recorded in the Storm Reserve (Account No. 228.1) serves the same purpose and is contemplated by Rule 25-6.0143, Florida Administrative Code. The recovery of prudently incurred storm restoration costs was approved in the Gulf Power Company case.

While one disposition of any excess storm damage costs could be the establishment, and subsequent amortization, of a regulatory asset, it is staff's opinion that FPL's current request is unnecessary, premature and does not meet the required criteria to establish such a regulatory asset. In accordance with the Commission's prior treatment of expenses related to individual utility self-insurance mechanisms, the Commission retains the right to review FPL's charges to the Storm Reserve, at any time, for reasonableness and prudence and to disallow any that are found to be inappropriate.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the Commission's Proposed Agency Action timely files a protest within 21 days of the issuance of the Order from this recommendation, this Docket should be closed upon issuance of a Consummating Order. (Brubaker)

Staff Analysis: If no person whose substantial interests are affected by the Commission's Proposed Agency Action timely files a protest within 21 days of the issuance of the Order from this recommendation, this Docket should be closed upon issuance of a Consummating Order.