State of Florida

Public Service Commission

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

DATE: July 7, 2005

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

FROM: Division of Economic Regulation (Slemkewicz, Draper, Devlin, Haff, Joyce, Kummer, Kyle, Lee, Maurey, McNulty, Romig, Wheeler, Willis)
Office of the General Counsel (C. Keating, K. Fleming)

RE: Docket No. 041291-EI – Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

AGENDA: 07/19/05 – Regular Agenda – Posthearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Baez

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\041291.RCM.DOC
Attachment A S:\PSC\ECR\WP\95-0264.Order.DOC
Attachment B S:\PSC\ECR\WP\02-0501.Order.DOC

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(Issues that were withdrawn are not reflected in the Table of Contents)

Case Background

On November 4, 2004, Florida Power & Light Company ("FPL" or "Company") filed a petition seeking authority to recover prudently incurred restoration costs, in excess of its storm reserve balance, related to the hurricanes that struck its service territory in 2004. In its petition, FPL asserted that as a result of Hurricanes Charley, Frances, and Jeanne, FPL estimated its extraordinary storm-related costs to be approximately $710 million, net of insurance proceeds, which would result in a deficit of approximately $356 million in its storm reserve fund at the end of December 2004. By its petition, FPL proposed to recover $354 million of this estimated deficit through a monthly surcharge to apply to customer bills over a 24-month recovery period. According to FPL's petition, the amount that was in the storm reserve as of December 31, 2004 was approximately $354 million.

On November 19, 2004, FPL filed a petition seeking approval to implement its proposed surcharge on a preliminary basis, subject to refund, pending the Commission's final order in this docket. Along with its petition, FPL filed a tariff sheet reflecting its proposed surcharge by rate class. By Order No. PSC-05-0187-PCO-EI, issued February 17, 2005, the Commission granted FPL's request to implement its proposed surcharge on a preliminary basis, and the preliminary surcharge became effective, subject to refund, for meter readings taken on or after February 17, 2005.

By Order No. PSC-05-0283-PCO-EI, issued March 16, 2005, the Commission granted FPL leave to amend its original petition to reflect an updated estimate of the storm-related costs contained in its original petition. In its amended petition, filed February 4, 2005, FPL updated its estimate of extraordinary storm related costs to approximately $890 million, net of insurance proceeds, which would result in a deficit of approximately $536 million in its storm reserve fund at the end of December 2004. By its amended petition, FPL proposes to recover $533 million of this estimated deficit through a monthly surcharge to apply to customer bills based on a 36-month recovery period. FPL's request is listed below:

	Original Petition filed 11/4/04	Amended Petition filed 2/4/05
Extraordinary Storm-related Costs	$819,000,000	$999,000,000
Insurance Proceeds	$109,000,000	$109,000,000
Storm Reserve Fund	$354,000,000	$354,000,000
Negative Balance	$356,000,000	$536,000,000
Amount Requested	$354,000,000	$533,000,000

On April 6 and April 11-13, 2005, the Commission held customer service hearings in Ft. Myers, Port Charlotte, Daytona Beach, Melbourne, Stuart, and West Palm Beach. Several individuals spoke at these service hearings, most of whom represented city/county governments (i.e. mayors, commissioners, school superintendents, emergency management officials, etc.), local civic associations, and various local chamber of commerce representatives. For the most

part, these individuals were highly complimentary towards FPL's hurricane restoration efforts, although few addressed the specific issues concerning amounts to be recovered.

On April 20 and 21, 2005, the Commission conducted a technical hearing on FPL's amended petition. Along with FPL, the Office of Public Counsel ("OPC"), Florida Industrial Power Users Group ("FIPUG"), Florida Retail Federation ("FRF"), Thomas P. and Genevieve E. Twomey ("Twomeys"), and AARP participated as parties to the proceeding. Following the hearing, each party filed a post-hearing brief and/or statement of issues and positions.

Like the other Florida investor owned utilities, FPL operates under a self insurance program for its distribution and transmission facilities. This became necessary when insurance became cost prohibitive as a result of the devastation caused by Hurricane Andrew in 1992. As a result of this change to self insurance, FPL conducted a study (1993 Study) of the different accounting methods for a self insurance program.

One of the major issues in this docket is the appropriate methodology to be used to determine the amount of storm restoration costs to be charged to the storm reserve (Issues 1 and 2). In FPL's 1993 Study, FPL presented three methods to determine the amount of storm-related costs to be charged to the storm reserve.

The first method is the Actual Restoration Cost Approach. Actual restoration costs are defined as those direct and indirect costs incurred to safely restore customer service, or to return plant and equipment to its original pre-storm operating condition. The result of the Actual Restoration Cost Approach is to restore the plant in service and accumulated depreciation accounts to their pre-storm balances. To accomplish this, all storm-related restoration costs, both O&M and capital, are charged to the storm reserve. Essentially, this approach mimics the replacement cost insurance that FPL had prior to Hurricane Andrew in 1992. This is the approach that FPL has utilized in charging costs to the storm reserve since 1993 and is the approach advocated by FPL in this docket.

The second method presented by FPL in its 1993 Study is the Actual Restoration Cost Approach with Net Book Value Adjustment. Under this approach, the actual restoration costs charged to the storm reserve are reduced by capitalizing the normal replacement cost of replaced facilities less the net book value of the retired assets.

The third and final method presented by FPL in its 1993 Study is the Incremental Cost Approach. Using this approach, the actual restoration costs are reduced by non-incremental, or normal, O&M expenses. According to FPL, however, the actual restoration costs would be increased to recover incremental indirect costs such as lost revenue. As envisioned by FPL, no costs would be capitalized to rate base under this approach. Rather, all capital costs are charged to the storm reserve.

Neither the second nor the third method included in FPL's 1993 Study was advocated by any party in this docket. However, a fourth method was advocated by the OPC.

OPC's witnesses presented a fourth method identified as the "OPC Storm Damage Guidelines." In general, the OPC guidelines are a combination of FPL's Actual Restoration Cost

Approach with Net Book Value Adjustment and the Incremental Cost Approach methodologies. On the capital side, the OPC guidelines capitalize normal replacement cost of plant and account for retirements and the cost of removal. Only the incremental or extraordinary costs are charged to the storm reserve under this method. For O&M expenses, the OPC guidelines only allow incremental O&M expenses to be charged against the storm reserve. However, the OPC guidelines prohibit the consideration of any lost revenue or uncollectible expenses.

In this recommendation, staff recommends a modified Incremental Cost Approach. This approach is also a combination of the Actual Restoration Cost with Net Book Value Adjustment Approach and the Incremental Cost Approach. This approach is similar to the methodology advocated by OPC except for the consideration of incremental indirect costs (Issue 15). Under this approach, extraordinary costs are charged to the storm reserve. This includes both capitalizing the normal replacement cost of plant and allowing incremental O&M expenses to be charged against the storm reserve. In addition, some normal costs, to the extent there are lost revenues, are recommended for recovery as part of the Storm Recovery Surcharge.

Issue 15 is one of the most controversial issues contained in the recommendation. This issue addresses the inclusion of incremental indirect costs such as lost revenues. Staff has presented a primary and an alternative recommendation concerning the issue of including the effect of lost revenues in calculating the costs to be charged to the storm reserve. Staff in its primary recommendation recommends not allowing lost revenues as an indirect cost. Rather, Primary Staff recognizes lost revenues by including those normal O&M expenses in the calculation of the surcharge up to the level of the normal O&M costs previously excluded by other staff adjustments. Staff also has an alternative recommendation that recommends lost revenues not be given any consideration in the calculation of the costs to be charged to the storm reserve. Below is a table providing a summary by issue of Staff's primary recommendation:

FPL Estimated 2004 Storm Damage Costs (System)		$999,000,000
Less: Insurance Reimbursements		(109,000,000)
Net 2004 Storm Damage Costs		890,000,000
Less: Staff Adjustments		
Issue 4 – Non-Management Payroll Expense (Removed to prevent double recovery)	(10,900,000)	
Issue 5 – Managerial Payroll Expense (Removed to prevent double recovery)	(21,100,000)	
Issue 8 – Tree Trimming Expense (Removed difference between actual & budgeted)	(1,000,000)	
Issue 9 – Vehicle Expenses (Removed to prevent double recovery)	(5,261,887)	

Issue 11 – Advertising & Public Relations Expense (Removed the amount over budget)	(1,552,410)
Issue 13 – Replacement Capital Costs	(58,000,000)
- Cost of Removal	(12,200,000)
- Contributions in Aid of Construction (Removed the normal capital cost)	(21,700,000)
Issue 15 – Normal O&M Cost Offset	33,814,297
- Uncollectible Expenses (Primary added normal cost back equal to uncollectible account and incremental portion of lost revenue. Alternative excludes the $33,814,297.)	6,000,000

Total System Adjustments	(91,900,000)
Adjusted for System Adjustments	798,100,000
Retail Jurisdictional Separation Factor	x 0.99525
Adjusted Jurisdictional 2004 Storm Damage Costs To Be Charged Against Storm Reserve	$794,309,025

The Commission has jurisdiction over this matter pursuant to Chapter 366, Florida Statutes, including but not limited to Sections 366.04, 366.05 and 366.06, Florida Statutes.

Summary of Storm Damage Issues

Storm Cost Categories	Amount Requested	Staff Adjustments	Amount Recommended
Issue 4 – Non-managerial Salaries	$ 45,389,456	$ (10,900,000)	$ 34,489,456
Issue 5 – Managerial Salaries	62,196,295	(21,100,000)	41,096,295
Issue 7 – Employee Training Costs[1]	0	0	0
Issue 8 – Tree Trimming	89,435,466	(1,000,000)	88,435,466
Issue 9 – Fleet Vehicles	8,088,117	(5,261,887)	2,826,230
Issue 10 – Call Center[2]	0	0	0
Issue 11 – Advertising	1,703,454	(1,552,410)	151,044
Issue 12 – Uncollectible Accounts	0	0	0
Issue 13 – Normal Plant In service	58,000,000	(58,000,000)	0
- Cost of Removal	12,200,000	(12,200,000)	0
- CIAC	21,700,000	(21,700,000)	0
Issue 15 – Lost Revenue[3]	0	33,814,297	33,814,297
- Catch-up, Incremental Work[4]	0	0	0
- Uncollectible Accounts[5]	0	6,000,000	6,000,000
Uncontested Restoration Costs	591,287,212	0	591,287,212
Total Storm Costs	$ 890,000,000	$ (91,900,000)	$ 798,100,000

1 Included in uncontested costs. Uncontested issue.
2 Included in uncontested costs. Uncontested issue.
3 Not included in original request. Company requested the inclusion of $38,200,000 if Commission used incremental cost approach. Primary added normal cost back equal to uncollectible account and incremental portion of lost revenue. Alternate excludes the $33,814,297.
4 Not included in original request. Company requested the inclusion of $16,000,000 if Commission used incremental cost approach.
5 Not included in original request. Company requested the inclusion of $6,000,000 if Commission used incremental cost approach.

Discussion of Issues

Issue 1: What is the legal effect, if any, of FPL's 1993 storm cost study and Order No. PSC-95-0264-FOF-EI entered in Docket No. 930045-EI on the decisions to be made in this docket?

Recommendation: The methodology proposed in FPL's 1993 storm cost study does not represent the standard by which the Commission must determine which costs are appropriately charged to FPL's storm damage reserve. In Order No. PSC-95-0264-FOF-EI, the Commission did not expressly approve the methodology proposed in FPL's study and made no finding that the methodology was "reasonable" or "appropriate" or otherwise should be used as the continuing standard for charging costs to the storm reserve. (C. Keating, K. Fleming)

Position of the Parties

FPL: The Commission approved accounting standards submitted by FPL pursuant to Commission order. FPL must adhere to Commission orders and has relied upon the Commission's order. Storm restoration costs were booked in accordance with the approved standards and were included in the Storm Damage Reserve deficit that was reported as an asset in the Company's 2004 financial statements. Changing the standards retroactively would undermine the basis for financial reporting. Nothing has occurred that alters the propriety of using the approved standards.

OPC: The study and order are not legally dispositive. FPL bases its opposition to many of OPC's adjustments solely on the ground that FPL's treatment is consistent with this 1993 study and Order No. PSC-95-0264-FOF-EI. Yet, in the order the Commission said only that FPL study was "adequate." Moreover, FPL no longer has transmission and distribution insurance, meaning the circumstances cited by FPL have changed.

FIPUG: The 1993 study and Order No. PSC-95-0264-FOF-EI are not dispositive of the issues regarding the manner in which FPL should account for the storm-related costs in this proceeding. In addition, the Order did not prejudge cost recovery from FPL's ratepayers under the storm damage reserve.

AARP: FPL's 1993 study and Order No. PSC-95-0264-FOF-EI are not legally dispositive of the accounting methodology that the Commission should require FPL to apply to 2004 storm costs. The study and order do not preclude the Commission from requiring FPL to share in the costs of restoring its system to the point that its earnings are reduced to 10 percent, which remains a fair and reasonable return in the current market.

TWOMEYS: FPL's 1993 study and Order No. PSC-95-0264-FOF-EI are not legally dispositive of the accounting methodology that the Commission should require FPL to apply to 2004 storm costs. The study and order do not preclude the Commission from requiring FPL to share in the costs of restoring its system to the point that its earnings are reduced to 10 percent, which remains a fair and reasonable return in the current market.

FRF: The 1993 study and Order No. PSC-95-0264-FOF-EI are not dispositive of the issues regarding the manner in which FPL should account for the storm-related costs in this proceeding.

In addition, the Order did not prejudge cost recovery from FPL's ratepayers under the storm damage reserve.

Staff Analysis:

Background

By Order No. PSC-93-0918-FOF-EI, issued June 17, 1993, in Docket No. 930405-EI, In re: Petition to implement a self-insurance mechanism for storm damage to transmission and distribution system and to resume and increase annual contribution to storm and property insurance reserve fund by Florida Power and Light Company ("1993 Order"), the Commission authorized FPL "to implement a self insurance approach for the costs of repairing and restoring its transmission and distribution systems in the event of hurricane, storm damage or other natural disaster" through annual contributions to its Storm and Property Insurance Reserve Fund ("storm reserve"). In addition, the Commission required FPL to prepare and submit a study addressing primarily two matters: (1) the appropriate amount to be contributed annually to its storm reserve; and (2) the types of costs that FPL intended to charge to its storm reserve.

In response to the 1993 Order, FPL filed its study on October 1, 1993 ("1993 Study" or "Study"). With respect to the appropriate annual contribution to the storm reserve, the 1993 Study recommended a $7.1 million annual accrual. With respect to the types of costs to be charged to the storm reserve, the 1993 Study described three alternative approaches for determining the amounts to be charged to the storm reserve and recommended use of an approach identified as the "Actual Restoration Cost" Approach.

In Order No. PSC-95-0264-FOF-EI, issued February 27, 1995, in Docket No. 930405-EI ("1995 Order"), which is attached hereto for reference as Attachment A, the Commission addressed the 1993 Study. (Attachments to the 1995 Order are not included in Attachment A as they are not relevant to the resolution of this issue.) The 1995 Order was entitled "Notice of Proposed Agency Action Approving Storm Damage Study and Adjustments to Self Insurance Mechanism." With respect to the Study, the Commission stated at page 4 of the Order, in relevant part:

> FPL's study provided sufficient analysis to indicate the appropriate annual amount that should be contributed to the storm reserve fund at this time.
>
> In addition, the study addressed the issues raised in the [1993 Order] concerning the types of expenses that would be charged to the reserve. However, we have the authority to review any expenses charged to the reserve for reasonableness and prudence. FPL states that it would use the Actual Restoration Cost Approach for determining the appropriate amounts to be charged to the reserve. This methodology is consistent with the manner in which replacement cost insurance works.

While the Commission found the study sufficient to indicate the appropriate annual amount to be contributed to FPL's storm reserve, it ultimately did not approve the $7.1 million

annual accrual proposed in the study, but instead approved an annual accrual amount of $10.1 million arrived at through subsequent discussions between FPL and the Commission's staff.[6] With respect to the types of costs to be charged to the storm reserve, the Commission made no express findings concerning the appropriateness or reasonableness of the methodology proposed in the Study. The Commission stated that it was "considering the appropriateness of opening a rulemaking proceeding to establish uniform guidelines for determining when the storm reserve should be charged and what costs should be charged to it."[7]

The Commission stated its conclusions concerning the 1993 Study in an ordering paragraph at the conclusion of the Order, which stated:

> ORDERED that the storm damage study submitted by Florida Power & Light Company is hereby found to be adequate.

Argument of the Parties

At issue is whether the Commission, by its 1995 Order, approved the methodology proposed in FPL's 1993 Study concerning the types of costs to be charged to the storm reserve and, in turn, whether the Commission's decisions in this docket are limited to determining whether FPL complied with that methodology. FPL argues that the Commission, in its 1995 Order, approved use of the Actual Restoration Cost Approach recommended in the Study and cannot now apply a new standard retroactively. Each of the Intervenors takes the position that the Study and the 1995 Order are not legally dispositive of the Commission's decisions in this docket concerning what costs are appropriately charged to the storm reserve.

In support of its position, FPL emphasizes the title of the 1995 Order, "Notice of Proposed Agency Action Approving Storm Damage Study and Adjustments to Self Insurance Mechanism." Based on the title of the 1995 Order, FPL asserts that the Commission approved the 1993 Study, thus necessarily approving FPL's recommendation that the Actual Restoration Cost Approach be used for charging costs to the storm reserve. FPL also cites to a passage in the Order that it believes shows the Commission's intent to approve the categories of costs that should be charged to the storm reserve. That passage reads:

> In addition, the study addressed the issues raised in the [1993 Order] concerning the types of expenses that would be charged to the reserve. However, we have the authority to review any expenses charged to the reserve for reasonableness and prudence. FPL states that it would use the Actual Restoration Cost Approach for determining the appropriate amounts to be charged to the reserve.

FPL asserts that the Commission, by that language, retained only the authority to review the reasonableness and prudence of specific charges that FPL may make in the categories listed in the Study. FPL states that it has consistently applied the Actual Restoration Cost Approach in

[6] Id. at pp. 3-7
[7] Id. at p. 5.

accounting for the costs of eight storms between 1993 and 2003, without challenge from the Commission or any party. Finally, FPL asserts that none of the Intervenors have provided evidence demonstrating that circumstances have changed warranting a departure from the Actual Restoration Cost Approach.

In support of its position, OPC emphasizes that the Commission, in its 1995 Order, found only that the Study was "adequate" and referred to the possibility of convening rulemaking proceedings to develop uniform standards for storm accounting applicable to all utilities. OPC dismisses FPL's conclusion that the lack of a rulemaking proceeding to date signifies the Commission's support for the Actual Restoration Cost Approach, instead arguing that the lack of a rulemaking proceeding signifies only that the need recognized by the Commission remains unfulfilled. OPC states that its position is not altered by the fact that FPL used this methodology between 1993 and 2003 without controversy; OPC asserts that those occasions were simply not sufficiently material to attract attention, and that the issue remained latent during that period.

OPC further argues that if the Commission does regard its 1995 Order as a form of approval, changes in circumstances since the issuance of that order allow the Commission to consider use of a different approach. OPC asserts that FPL, in the 1993 Study, justified its Actual Restoration Cost Approach, in part, on its expectation that it would continue to have in place commercial insurance on its transmission and distribution facilities. OPC notes that the Study stated:

> Use of the Actual Restoration Cost Approach is consistent with replacement cost insurance and avoids the cumbersome (and potentially arbitrary) accounting for storm restoration utilizing two different methodologies.

OPC points out that FPL today has no insurance on its transmission and distribution facilities, which constitute the bulk of its storm-vulnerable assets. OPC contends that this change in circumstances allows the Commission to consider using a different methodology.

Staff Analysis

Staff believes that the Commission's 1995 Order was not intended to approve the methodology proposed in FPL's 1993 Study as the standard by which the Commission must determine which costs are appropriately charged to FPL's storm reserve. In reaching this conclusion, staff recognizes that the title of the 1995 Order indicates that it "approved" the Study, but believes that the body of the Order, and a review of other Commission orders, strongly suggests that such approval was not intended for the purpose asserted by FPL in this proceeding.

While the title of the 1995 Order indicates that it "approved" the 1993 Study, the Order does not expressly approve or otherwise state any intent to implement the specific recommendations contained in the Study. First, with respect to the appropriate annual contribution to the storm reserve, the Commission found the study sufficient to indicate the appropriate annual amount to be contributed to FPL's storm reserve but did not approve the $7.1 million annual accrual proposed in the study. Second, with respect to the types of costs to be

charged to the storm reserve, the Commission did not expressly approve the methodology proposed in FPL's study and made no finding that the methodology was "reasonable" or "appropriate" or should otherwise be blessed as the continuing standard for charging costs to the storm reserve. Third, the Commission concluded the Order by finding only that the Study was "adequate." In this context, staff believes that the title of the Order was intended to express that the 1993 Study sufficiently satisfied the requirements of the Commission's 1993 Order requiring that the Study be conducted and submitted. Giving effect to the Order title as proposed by FPL would require going beyond the specific language and findings in the Order.

Staff's view of the 1995 Order is consistent with Commission orders addressing the same issue with respect to other investor-owned electric utilities in Florida. In particular, in Order No. PSC-95-0255-FOF-EI ("TECO Order")[8], issued just four days prior to FPL's 1995 Order, the Commission addressed the same issue with respect to Tampa Electric Company ("TECO"). In that Order, which was also entitled "Notice of Proposed Agency Action Order Approving Storm Damage Study," the Commission specifically found that the replacement cost approach proposed in a study submitted by TECO was "a reasonable methodology for determining the appropriate amounts to be charged to the storm reserve." Further, as it did in FPL's 1995 Order, the Commission noted that TECO's proposed approach was consistent with the provisions of TECO's prior insurance coverage. Despite having made a specific finding that TECO's proposed approach was reasonable – a finding notably absent from the 1995 Order – the Commission went on to explain the extent of its authority to review costs charged to TECO's storm reserve:

> While we sympathize with Staff's concerns regarding the appropriateness of particular proposed expenses listed by TECO, it is our understanding that this list is merely setting forth examples of expenses that the utility may wish to charge against storm reserves. The list is a general guideline of categories to be recovered; it is neither all inclusive or exclusive. Because of the unpredictable nature of any given storm, it seems premature to make a determination of the prudency of any particular charge at this time. In the event of a storm, the utility will bear the burden of showing that specific charges against reserves are prudent and reasonable. . . . We retain the right to review the costs and disallow any that are found to be inappropriate.

Based on this Order, it appears to staff that the Commission, by retaining the authority to review the prudence and reasonableness of costs charged to the storm reserve, also intended to retain its authority to determine whether a particular *category* of costs was appropriately charged to the storm reserve. The Commission left the burden on the utility to show that specific charges against storm reserves are appropriate.

Staff's review of Commission orders related to other electric utilities shows that the Commission intended that each utility be held to the same standard. Most notably, in an order addressing a request by Gulf Power Company to amortize hurricane-related expenses to its storm

[8] Issued February 23, 1995, in Docket No. 930987-EI, In re: Investigation into Currently Authorized Return on Equity of Tampa Electric Company.

reserve[9], the Commission cites the TECO Order in the same breath as the 1995 Order as the standard for the Commission's review of costs charged to a utility's storm reserve.

In conclusion, staff recommends that the Commission find that the 1995 Order was not intended to approve the methodology proposed in FPL's 1993 Study as the standard by which the Commission must determine which costs are appropriately charged to FPL's storm reserve. If the Commission believes that the methodology set forth in the 1993 Study was established as a standard for charging items to the storm reserve, then Issues 2, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, and 15 become moot.

[9] 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.

Issue 2: Is the methodology in Order No. PSC-95-0264-FOF-EI, issued in Docket No. 930405-EI, for booking costs to the Storm Damage Reserve the appropriate methodology to be used in this docket?

Recommendation: No. A modified incremental cost approach is the appropriate methodology to be used in this docket for booking costs to the Storm Damage Reserve. (Slemkewicz)

Position of the Parties

FPL: Yes. Nothing has occurred that would alter the propriety of using the standards approved in Docket No. 930405-EI.

OPC: No. FPL's proposed methodology would lead to double recovery of costs covered by base rates and would distort the relationship between installed plant and depreciation accounts.

FIPUG: No. FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

AARP: No. The storm damage reserve should be limited to extraordinary costs that are incremental to the amounts that FPL would have spent on the replacement plant, cost of removal, and O&M in the absence of the storms.

TWOMEYS: No. The storm damage reserve should be limited to extraordinary costs that are incremental to the amounts that FPL would have spent on the replacement plant, cost of removal, and O&M in the absence of the storms.

FRF: No. FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

Staff Analysis: One of the major issues in this docket is the appropriate methodology to be used to determine the amount of storm restoration costs to be charged to the storm reserve. In FPL's 1993 Study, FPL presented three methods to determine the amount of storm-related costs to be charged to the storm reserve.

The first method is the Actual Restoration Cost Approach. Actual restoration costs are defined as those direct and indirect costs incurred to safely restore customer service, or to return plant and equipment to its original pre-storm operating condition. (EXH 24, p. 9) The result of the Actual Restoration Cost Approach is to restore the plant in service and accumulated depreciation accounts to their pre-storm balances. (TR 117) To accomplish this, all storm-related restoration costs, both O&M and capital, are charged to the storm reserve. Essentially, this approach mimics the replacement cost insurance that FPL had prior to Hurricane Andrew in 1992. (TR 210) This is the approach that FPL has utilized in charging costs to the storm reserve since 1993 and is the approach advocated by FPL in this docket.

The second method, presented by FPL in its 1993 Study, is the Actual Restoration Cost Approach with Net Book Value Adjustment. Under this approach, the actual restoration costs

charged to the storm reserve are reduced by capitalizing the normal replacement cost of replaced facilities less the net book value of the retired assets. (EXH 24, p. 10)

The third and final method, presented by FPL in its 1993 Study, is the Incremental Cost Approach. Using this approach, the actual restoration costs are reduced by non-incremental, or normal, O&M expenses. According to FPL, however, the actual restoration costs would be increased to recover incremental indirect costs such as lost revenue. As envisioned by FPL, no costs would be capitalized to rate base under this approach. Rather, all capital costs are charged to the storm reserve. (EXH 24, p. 10)

Neither the second or third method included in FPL's 1993 Study was advocated by any party in this docket. However, a fourth method was advocated by the OPC.

OPC's witnesses presented a fourth method identified as the "OPC Storm Damage Guidelines." (TR 390-391) In general, the OPC guidelines are a combination of FPL's Actual Restoration Cost Approach with Net Book Value Adjustment and the Incremental Cost Approach methodologies. On the capital side, the OPC guidelines capitalize normal replacement cost of plant and account for retirements and the cost of removal. Only the incremental or extraordinary costs are charged to the storm reserve under this method. For O&M expenses, the OPC guidelines only allow incremental O&M expenses to be charged against the storm reserve. However, the OPC guidelines prohibit the consideration of any lost revenue or uncollectible expenses.

Staff generally agrees with Mr. Majoros that only extraordinary costs should be charged to the storm reserve. This includes both capitalizing the normal replacement cost of plant and only allowing incremental O&M expenses to be charged against the storm reserve. However, staff believes that the OPC guidelines are too restrictive in certain areas such as lost revenue and uncollectible expenses. Therefore, a modified approach is appropriate. It should be noted, however, that there is an alternate staff recommendation in Issue 15 that lost revenues should not be charged to the reserve.

In staff's opinion, a modified incremental cost approach that addresses both capital items and income statement items is the appropriate methodology to be used for booking costs to the storm damage reserve in this docket. As a result, staff has recommended in Issues 4, 5, 8, 9, 11, 13, and 15 that various adjustments be made that are appropriate under the modified incremental cost approach methodology. However, if the Commission should determine that the actual restoration cost approach is the appropriate methodology to be used by FPL, Issues 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, and 15 become moot. These issues address the types of costs that can be charged to the storm reserve if the modified incremental cost approach is utilized.

Issue 3: Were the costs that FPL has booked to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993, by the Company in Docket No. 930405-EI?

Recommendation: Yes, the costs that FPL has booked to the Storm Damage Reserve appear to be consistent with the methodology in the study filed on October 1, 1993, in Docket No. 930405-EI. (Slemkewicz)

Position of the Parties

FPL: Yes. Costs booked to the Storm Damage Reserve were recorded consistent with the methodology in the 1993 Study approved by the Commission in the 1995 Order.

OPC: They appear to be consistent, although it is worth noting that portions of the 1993 study reflect the expectation that accounting entries would involve payments by insurance companies, not customers.

FIPUG: No position.

AARP: They appear to be consistent, although it is worth noting that portions of the 1993 study reflect the expectation that accounting entries would involve payments by insurance companies, not customers.

TWOMEYS: They appear to be consistent, although it is worth noting that portions of the 1993 study reflect the expectation that accounting entries would involve payments by insurance companies, not customers.

FRF: Yes, but the costs thus booked are not appropriate for determining the level or amount of costs to be charged to the storm reserve in these proceedings.

Staff Analysis: FPL, as well as the intervenors who have taken a position, agree that FPL has apparently booked the costs to the Storm Damage Reserve in a manner that is consistent with the Actual Restoration Cost Approach described in FPL's 1993 Study. Using this methodology restores the plant in service accounts and the accumulated depreciation reserve to their pre-storm balances. (TR 117) FPL witness Davis stated that the charging of all costs incurred, both O&M and capital, to the storm reserve was the accounting treatment addressed in its 1993 Study. (TR 84) In addition, OPC witness Majoros agreed that his review of FPL's filing did not reveal any deviation from the Actual Restoration Cost Approach accounting treatment that was included in the study filed in Docket No. 930405-EI. (TR 446) Staff witness Piedra, who sponsored the staff audit report, also testified that FPL had recorded the costs using the Actual Restoration Cost Approach. (TR 488, 496)

Based on the testimony presented in this docket, it appears that FPL did book the costs to the storm damage reserve using a methodology consistent with the methodology in its 1993 Study. Staff would point out, however, that the appropriateness of using the Actual Restoration Cost Approach is addressed in Issue 2.

Issue 4: Has FPL quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. FPL's non-management employee labor expense should be adjusted to reflect only the incremental costs above its budgeted levels for the year end 2004. To prevent FPL from collecting twice through rates for its employee regular pay, the Commission should disallow $10.9 million of the amount FPL charged to the storm reserve. (Joyce)

NON-MANAGEMENT EMPLOYEE LABOR EXPENSE	
FPL Requested Charge to Storm Reserve	$45,389,456
Staff Recommended Charge to Storm Reserve	$34,489,456
Staff Recommended Adjustment	$10,900,000

Position of the Parties

FPL: Yes. FPL has booked payroll costs to the Storm Damage Reserve consistent with the methodology in the 1993 Study approved by the Commission in the 1995 Order. No adjustment is necessary

OPC: No. Consistent with the principle that FPL should charge to the storm damage reserve only incremental and extraordinary costs, the Commission should require FPL to remove $10.9 million of non-management employee labor payroll expense from the amount charged to the storm reserve because it is already included in the budgeted amounts supported by base rates.

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

AARP: No. Consistent with the principle that FPL should charge to the storm damage reserve only incremental and extraordinary costs, the Commission should require FPL to remove $10.9 million of non-management employee labor payroll expense from the amount charged to the storm reserve because it is already included in the budgeted amounts supported by base rates.

TWOMEYS: No. Consistent with the principle that FPL should charge to the storm damage reserve only incremental and extraordinary costs, the Commission should require FPL to remove $10.9 million of non-management employee labor payroll expense from the amount charged to the storm reserve because it is already included in the budgeted amounts supported by base rates.

FRF: No; FPL has not appropriately quantified such costs. FPL's claimed storm-related costs, including non-management employee labor payroll expense, should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred. To correct FPL's inappropriate claims for employee expense, a total of $32 million (for both managerial and non-managerial payroll expense) of the amount FPL charged to the storm reserve should be disallowed.

Staff Analysis: FPL has requested to charge $45,389,456 of non-management employee labor expense to the storm reserve. FPL stated that, as discussed in Issue 3 above, there is no dispute in the record that FPL recorded costs consistent with the Actual Restoration Cost Approach. Storm-related payroll costs -- regular, overtime and temporary relieving pay -- are specifically identified as properly chargeable to the storm reserve under the Actual Restoration Cost Approach. (TR 106)

FPL states that OPC's incremental approach to payroll costs would introduce undesirable incentives. In meeting the objective of safe and rapid restoration, FPL states that it mobilizes virtually the entire organization in the restoration effort in one way or another. FPL also states that the normal work of those who are assigned directly to storm support is either performed by others "doubling down," or is done later, usually with overtime. According to FPL, if regular base compensation is not allowed to be charged against the storm reserve, the incentive is not to utilize available FPL resources but instead to leave them to perform their regular work and increase the utilization of contractors and "foreign" utilities. FPL further states that this would not only slow overall restoration efforts (since FPL resources can be mobilized more quickly than third parties can be brought in), but would also be more costly for customers because the unit costs of outside resources is significantly higher, on average, than FPL's costs. (TR 725)

OPC asserts that FPL demands that customers pay twice for the same work. OPC witness Majoros argues that FPL has improperly moved O&M expenses to the storm fund that customers already bear through the base rates that they pay. (TR 395) Witness Majoros testified that by moving all O&M expenses associated with the storm repair effort to the storm reserve, without taking into account the normal level of expenditures funded by base rates that customers pay, effectively requires customers to pay twice for the same costs. He referred to the practice as "double dipping." (TR 396). Witness Majoros stated that charging those costs to the storm reserve would fail to recognize that FPL's basic rates include recovery of normal cost, such as base salaries. He stated that FPL's proposal would collect twice; once through base rates and again through the proposed base rate surcharge. Witness Majoros concluded that this practice is not fair to ratepayers and that it would unjustly enrich FPL's management and shareholders. (TR 397)

According to OPC, FPL attempts to justify charging its base salaries to the storm account by claiming that it has catch-up and backfill work. (OPC BR 10) OPC states that the fact that there may be catch-up and backfill work to be done by employees once they conclude working on the storms does not justify making customers pay twice for those employees' regular salaries for their normal eight hour work day. Nor does the fact that FPL would have allocated some of its work force differently justify allowing FPL to "double dip" now. Further, OPC states that the burden would be on FPL to prove that any catch-up work and backfill costs are properly chargeable to the storm account. (OPC BR 10-11)

OPC states that FPL witness Davis claimed that if one is to determine whether there was any "double dipping" one would have to ask whether total avoided base rate costs are greater than base rate revenue losses. (OPC BR 11) (TR 107) OPC contends that this argument again misses the basic point of "double dipping." Customers are paying twice for the same regular salary, once through base rates and again in a storm surcharge. OPC asserts that since the storm

account was designed to compensate the Company for costs to restore service to the customers, and lost revenue is not a cost of restoring service, this could not legitimately be charged to the storm account. (OPC BR 11) Staff notes that the issue of lost revenues is being addressed in Issue 15.

OPC emphasizes that while FPL should be focusing on restoring power in the safest and most efficient manner, it also has a duty to ensure that the costs it incurs are prudent and cost effective to the customers under the given circumstances. OPC states that cost shifting to essentially collect twice for the same eight hours worth of work is neither cost effective for the customer nor prudent. (OPC BR 11) OPC witness Majoros stated that while FPL's "double dipping" approach based on its 1993 study may be appropriate for tax or insurance purposes, it is absolutely wrong when seeking a rate increase from customers. (TR 398) He further stated that the Commission staff auditor agreed that it is Commission policy not to allow "double dipping" and that the "double dipping" cost should be disallowed. (TR 494)

OPC concludes that the Commission should remove the cost of non-management employee labor payroll expense from the amount charged to the storm reserve because it is already included in the budgeted amounts supported by base rates. To do otherwise would have customers paying twice for the same costs for non-management employee labor regular salaries. (OPC BR 12)

Staff agrees with OPC witness Majoros that by moving all O&M expenses associated with the storm repair to the storm reserve, without taking into account the normal level of expenditures funded by base rates that customers pay, requires customers to pay twice for the same costs. Staff believes that FPL has not demonstrated that the non-management labor expense it charged to the storm reserve is not already being recovered in its base rates. Further, staff notes that the appropriateness of lost revenues and catch-up work will be addressed in Issue 15. As such, staff recommends that FPL's non-management employee labor expense should be adjusted to reflect only the incremental costs above its budgeted levels for the year end 2004. To prevent FPL from collecting twice for its employee regular pay, the Commission should disallow $10.9 million of the amount FPL charged to the storm reserve.

Issue 5: Has FPL properly treated payroll expense associated with managerial employees when determining the costs that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. FPL's managerial employee payroll expense should be adjusted to reflect only the incremental costs above its budgeted levels for the year end 2004. To prevent FPL from collecting twice for its employee regular pay, the Commission should disallow $21.1 million of the amount FPL charged to the storm reserve. (Joyce)

MANAGERIAL EMPLOYEE PAYROLL EXPENSE

FPL Requested Charge to Storm Reserve	$62,196,295
Staff Recommended Charge to Storm Reserve	$41,096,295
Staff Recommended Adjustment	$21,100,000

Position of the Parties

FPL: Yes. FPL has booked payroll costs to the Storm Damage Reserve consistent with the methodology in the 1993 Study approved by the Commission in the 1995 Order. No adjustment is necessary.

OPC: No. The Commission should disallow $21.1 million of managerial payroll expense from the amount that FPL charged to the storm reserve.

FIPUG: Agree with OPC's Position: The Commission should require FPL to remove $18,300,983 of managerial payroll expense from the amount that FPL charged to the storm reserve.

AARP: No. The Commission should require FPL to remove $21.1 million of managerial payroll expense from the amount that FPL charged to the storm reserve.

TWOMEYS: No. The Commission should require FPL to remove $21.1 million of managerial payroll expense from the amount that FPL charged to the storm reserve.

FRF: No; FPL has not appropriately quantified such costs. FPL's claimed storm-related costs, including managerial employee payroll expense, should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred. To correct FPL's inappropriate claims for employee expense, a total of $32 million (for both managerial and non-managerial payroll expense) of the amount FPL charged to the storm reserve should be disallowed.

Staff Analysis: FPL noted that, as discussed previously, there is no dispute in the record that it recorded costs consistent with the Actual Restoration Cost Approach. FPL contends that storm-related payroll-regular, overtime and temporary relieving pay are specifically identified as

properly chargeable to the storm reserve under the Actual Restoration Cost Approach. (TR 106) (EXH 24)

FPL stated that OPC gives no rationale in the Prehearing Order for their position, but FPL assumes that it is based on the use of OPC's "incremental" approach. FPL also stated that there is no record support for the amount of OPC's proposed management payroll adjustment. Further, FPL stated that as discussed in Issue 4, OPC's incremental approach to payroll costs would introduce undesirable incentives. (FPL BR 8-9) Lastly, FPL asserted that even if Mr. Majoros' adjustments were appropriate, he has overstated it substantially because he failed to take into account the approximately 6% of regular payroll that is charged to adjustment clauses and approximately 22% that is charged to capital on an annual basis. (TR 107)

OPC witness Majoros testified that FPL proposes to charge the full labor costs associated with storm recovery efforts to the storm reserve. This includes normal salaries, which are included in the Company's annual budget. He stated that the ratepayers are paying for these salaries through base rates. (TR 403) Mr. Majoros further stated that customers should not be required to pay for these regular salaries twice. (TR 403). Requiring customers to pay twice for the same costs by moving all O&M expenses associated with the storm repair effort to the storm reserve without taking into account the normal level of expenditures funded by base rates paid by customers is "double dipping." (TR 396) As acknowledged by witness Majoros, it may be appropriate to use a "replacement cost" approach for calculating tax losses and insurance claims, but it is absolutely wrong when seeking a rate increase for customers. He contends that the Commission should implement strict accounting procedures for FPL to follow to eliminate the increased rates that result when customers are required to pay twice for the same expense. (TR 398)

OPC acknowledged that FPL witness Davis relied heavily on his assertion that the Commission approved the accounting methodology set forth in FPL's 1993 Study. OPC stated that witness Davis' reliance on FPL's accounting methodology as a justification for "double dipping" in the present case is misplaced and unwarranted. OPC further stated that for the reason discussed in the issue specifically addressing the import of the 1993 study, it is clear that the Commission did not specifically approve FPL's accounting methodology. (OPC BR 13-14)

OPC noted that witness Davis also claimed that there are other costs, catch-up work, backfill work, and lost revenues, which he uses to excuse FPL's seeking to "double dip" in this instance. (TR 104 - 105, 107) OPC stated that while catch-up work and backfill work may be appropriately charged to the storm account if they are proven to be incremental costs of storm restoration, they do not excuse "double dipping." Staff notes that the issue of lost revenues is being addressed in Issue 15.

OPC witness Majoros testified that FPL witness Davis' attempt to lessen the amount FPL identified as the amount it charged to the storm account by claiming that a portion of these salaries are charged to cost recovery clauses and capital. Witness Majoros further testified that these arguments are without merit because FPL can still charge the salaries attributable to the clause through the clause proceeding. He also testified that FPL is charging all of its payroll/labor costs, even those generally associated with capital expenditures, to the storm account without differentiating between capital and O&M costs. (TR 399) In conclusion, OPC

stated that $21.1 million attributable to management employee labor cost should be excluded from amounts charged to the storm reserve. (OPC BR 14)

As stated in the previous issue, staff agrees with OPC witness Majoros that moving all O&M expenses associated with the storm repair to the storm reserve, without taking into account the normal level of expenditures funded by base rates that customers pay, requires customers to pay twice for the same costs. Staff believes that FPL has not demonstrated that the managerial employee expense it charged to the storm reserve is not already being recovered in its base rates. Further, staff notes that the appropriateness of lost revenues and catch-up work will be addressed in Issue 15. As such, staff recommends that FPL's managerial employee labor expense should be adjusted to reflect only the incremental costs above its budgeted levels for the year end 2004. To prevent FPL from collecting twice for payroll associated with managerial employees, the Commission should disallow $21.1 million of the amount FPL charged to the storm reserve.

Issue 6: At what point in time should FPL stop charging costs related to the 2004 storm season to the storm reserve?

Recommendation: FPL should stop charging costs to the storm reserve no later than July 31, 2005, for restoration work related to the 2004 storm season. In addition, the follow-up project cost in question must be demonstrated to be related to the 2004 storm damages and a staff audit of the follow-up projects is necessary to ensure that FPL followed its stated procedures differentiating the regular and storm-repair work orders and that FPL followed the cost accounting methodology approved in this proceeding. (Lee, McNulty)

Position of the Parties

FPL: Application of PSC Rule 25-6.0143, Florida Administrative Code, provides that all costs determined to be the result of storm damages should be charged to the Storm Damage Reserve.

OPC: FPL should stop charging amounts related to the 2004 storm season to the storm damage reserve after foreign utilities have departed, FPL employees are no longer working overtime hours, and the contractors that FPL employs routinely are working at a normal rate.

FIPUG: FPL should stop charging such costs to the storm damage reserve effective January 1, 2005, or at the conclusion of storm restoration activities, whichever is sooner. Such costs should not exceed $890 million.

AARP: FPL should stop charging amounts related to the 2004 storm season to the storm damage reserve after foreign utilities have departed, FPL employees are no longer working overtime hours beyond the level normally expected, and the contractors that FPL employs routinely are working at a normal rate.

TWOMEYS: FPL should stop charging amounts related to the 2004 storm season to the storm damage reserve after foreign utilities have departed, FPL employees are no longer working overtime hours beyond the level normally expected, and the contractors that FPL employs routinely are working at a normal rate.

FRF: FPL should stop charging such costs to the storm damage reserve effective January 1, 2005, or at the conclusion of storm restoration activities, whichever occurred first.

Staff Analysis: OPC argues that the Commission should establish a cut-off date for expenses to be charged to the storm reserve. Witness Majoros testified that FPL should stop charging items to the storm reserve once normal operations have resumed, outside contractors have been sent home, and employees are back to working a normal workweek. (TR 405) In its post hearing brief, OPC recognized that this point in time has been difficult to determine and suggested that, based on FPL witness Williams' testimony, the appropriate cut-off date is July 31, 2005. (BR 15-16) The positions of FIPUG, FRF, TWOMEYS, and AARP appear to be based on the argument made by witness Majoros or based on a January 1, 2005, date that limits the charges to the calendar year of the hurricanes.

FPL argues that its accounting practice is consistent with the direction given by Rule 25-6.0143, Florida Administrative Code, because application of the rule provides that all costs determined to be the result of storm damages should be charged to the storm reserve. Witness Davis cited the 1995 Order that he believes allowed follow-up work which occurred after Hurricane Andrew to be charged to the reserve. (TR 109-110, 216-217) Witness Davis argues that the appropriate criterion for determining whether costs of the repair work should be charged to the storm reserve is the root cause of the work, not the timing of the work. (TR 110)

Staff believes at issue here is not whether FPL's practice is consistent with the accounting methodology prescribed by the rule or the 1993 Study. The issue of whether there should be some adjustments to FPL's cost accounting approach is addressed in several accounting issues, such as Issue 2. At issue here is whether additional criteria for storm restoration cost recovery should be established based on the timing of the work and the absence of "foreign" (non-FPL) utilities or outside contractors. The concern is operational rather than accounting. (TR 218)

Staff does not believe the record supports a cut-off date based on the absence of foreign utilities or other factors that would indicate the utility's normal operations have resumed. After the emergency phase of restoration ended and normal operation resumed, FPL began multiple sweeps of its system to bring its infrastructure back to pre-failure state. (TR 529) FPL witness Williams testified that the projects which OPC witness Majoros believed to be questionable were follow-up projects conducted in the second phase of storm restoration to permanently repair damages caused by the hurricanes. (TR 528-531) As a policy, setting an arbitrary cut-off date based on the calendar year or the absence of "foreign" utilities may give a perverse incentive for utilities to rush the work and to retain foreign utilities or outside contractors in a less cost effective manner. Depending on the nature and extent of the damage caused by a hurricane, permanent repair may require less than several weeks or more than one year. (TR 217-218) Therefore, staff believes a case-by-case review is a better policy.

At the hearing, witness Williams provided the estimated completion dates of the feeder and lateral work (June 30 and July 31, 2005, respectively), described FPL's procedures that differentiate the regular and storm-repair work orders, and stressed FPL's use of bidding to perform the work in a cost effective manner. (TR 529, 531-532, 548) Further, FPL has provided a revised cost estimate of $26 million for its incomplete storm-related projects with a cap on the total amount. (TR 569) Given the nature and the extent of the hurricanes impacting the state in 2004 and the demonstration by FPL as described above, staff believes the estimated completion date of July 31, 2005 is reasonable.

In addition, staff believes the follow-up project cost must be demonstrated to be related to the 2004 storm damages and a staff audit after project completion is a more effective way to limit the amount in question. A staff audit can address whether FPL followed its stated procedures, whether FPL followed the cost accounting methodology approved in this proceeding, and whether the actual costs exceeded FPL's cost estimate or the cap. FPL witness Davis agrees that a Commission staff review after project completion is reasonable. (TR 219)

In conclusion, FPL should stop charging costs to the storm reserve no later than July 31, 2005, for restoration work related to the 2004 storm season. In addition, the follow-up project cost in question must be demonstrated to be related to the 2004 storm damages and a staff audit

of the follow-up projects is necessary to ensure that FPL followed its stated procedures differentiating the regular and storm-repair work orders and that FPL followed the cost accounting methodology approved in this proceeding.

Issue 7: Has FPL charged to the storm reserve appropriate amounts relating to employee training for storm restoration work? If not, what adjustments should be made?

Recommendation: Yes. FPL has not charged any employee training costs to the storm reserve. No adjustment is necessary. (Kyle)

Position of the Parties

FPL: Yes. No pre-storm training costs have been charged to the Storm Damage Reserve. No adjustments should be made

OPC: Employee training, including training for storm-related activities, is a normal function for which customers should not be required to bear charges through the storm damage reserve. FPL has not charged any training costs to the storm damage reserve in this case. OPC disputes a methodology that would allow such charges, but is not at issue with FPL as it applies to this case.

FIPUG: Agree with OPC's Position: Employee training, including training for storm-related activities, is a normal function for which customers should not be required to bear charges through the storm damage reserve.

AARP: Employee training, including training for storm-related activities, is a normal function for which customers should not be required to bear charges through the storm damage reserve.

TWOMEYS: Employee training, including training for storm-related activities, is a normal function for which customers should not be required to bear charges through the storm damage reserve.

FRF: No; FPL has not appropriately quantified such costs. Employee training is a basic function, and accordingly, the costs for such training are not appropriately charged to the storm damage reserve and not appropriately recovered through any storm surcharge.

Staff Analysis: OPC witness Majoros testified that FPL would collect for certain storm related costs twice: first, as part of base rates, and again as part of the storm reserve. (TR 397) In his rebuttal, FPL witness Davis testified that restoration activities are performed in accordance with detailed plans and procedures, which are practiced before hurricane season. (TR 104) FPL witness Whalin described these activities in detail. (TR 15-17) Witness Davis also testified that all of the costs associated with these activities are charged to normal operating costs, not to the storm reserve. (TR 104) None of the parties rebutted this testimony.

In its brief, OPC states that it appears that the utility has not charged any of the annual employee training activities to the storm reserve, and reiterates its belief that it would not be appropriate to do so. (OPC BR 17) FRF has stated in its position that FPL has not properly quantified the costs of training charged to the storm reserve; however, neither FRF nor any other party has stated an amount by which the reserve should be adjusted for training costs.

Staff believes that FPL's un-rebutted testimony is credible, and that no training costs which are part of normal activities have been charged to the storm reserve. Accordingly, staff recommends that no adjustment should be made.

Issue 8: Has FPL properly quantified the costs of tree trimming that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. The costs of tree trimming included in the storm reserve should be reduced by $1 million. (Kyle, Lee)

FPL Requested Charge to Storm Reserve	$89,435,466
Staff Recommended Charge to Storm Reserve	$88,435,466
Staff Recommended Adjustment	$ 1,000,000

Position of the Parties

FPL: Yes. Only tree trimming costs incurred in conjunction with storm restoration have been charged to the Storm Damage Reserve. No adjustments should be made.

OPC: No. The Commission should disallow the difference between the amount budgeted for tree trimming and the amount FPL actually spent of tree trimming. Based on the 2004 budget, $1 million should be disallowed. However, based on the six months closest to the hurricanes $4.2 million should be disallowed.

FIPUG: Agree with OPC: The Commission should disallow $4,220,000 from the amount that FPL charged to the storm damage reserve.

AARP: No. The Commission should disallow the difference between the amount budgeted for tree trimming and the amount FPL actually spent on tree trimming. Based on the 2004 budget, $1 million should be disallowed. However, based on the six months closest to the hurricanes $4.2 million should be disallowed.

TWOMEYS: No. The Commission should disallow the difference between the amount budgeted for tree trimming and the amount FPL actually spent on tree trimming. Based on the 2004 budget, $1 million should be disallowed. However, based on the six months closest to the hurricanes $4.2 million should be disallowed.

FRF: No; FPL has not appropriately quantified such costs. The Commission should disallow $4.2 million of FPL's claimed storm-related costs related to tree-trimming.

Staff Analysis: OPC witness Majoros testified that "tree trimming expense should be limited to the amounts which exceed FPL's normal expenses. I do not have enough information to make an adjustment for tree trimming expense at this time." (TR 404) FPL's response to OPC Interrogatory No. 49 states that the total tree trimming expense charged to the storm reserve was $89,435,466. Budgeted tree trimming expense for 2004 was shown as $47 million, and actual expense was shown as $46 million. (EXH 35) Also included in FPL's response was monthly detail of FPL's budgeted and actual tree trimming expenses for January 2004 through January 2005. (EXH 35)

During cross examination, FPL witness Davis acknowledged that the comparison of the budgeted verses actual amounts indicated that, for the six month period from August 2004 through January 2005, the budgeted amount exceeded actual expenditures by approximately $4.2 million. (TR 150) In its brief, OPC states that, based on Mr. Davis' testimony and the favorable variance in the 2004 budget, tree trimming expense charged to the storm damage reserve should be reduced by $1 million. (OPC BR 18) Further, OPC states that, based on the favorable budget variance during the six month period from August 2004 through January 2005, the adjustment should be $4.2 million dollars.

In its brief, FPL states that it disagrees with OPC's proposal to adjust tree trimming expenses to the extent that they cause the utility to exceed its budget for that activity. FPL states, however, that if OPC's approach were used, the amount of the adjustment should be limited to the $1 million variance from the annual budget. In Footnote 9 to its brief, FPL argues that "comparing only segments of an annual budget improperly ignores any cyclical or variable impacts reflected in the full budget cycle." The utility also notes that, in arriving at other proposed adjustments, OPC witness Majoros compared salaries and vehicle expenses to annual budgeted amounts. (FPL BR 12)

Staff notes that the utility's budgeted tree trimming expense for the period January 2004 through July 2004 was approximately $26.6 million, while its actual recorded expenses were approximately $28.8 million. (EXH 35) Staff believes that this unfavorable variance of $2.2 million for the period preceding the hurricanes supports FPL's argument that events other than the storm restoration effort could impact a budget variance. Based on its analysis of the evidence in the record, staff believes that it is reasonable to use the annual budget variance as the appropriate adjustment to remove non-incremental costs from the amount charged to the storm reserve. Therefore, staff recommends that the tree trimming expenses included in the storm damage reserve be reduced by $1 million.

Issue 9: Has FPL properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: No. The costs of company-owned fleet vehicles charged to the storm reserve should be reduced by $5,261,887. (Kyle)

FPL Requested Charge to Storm Reserve	$8,088,117
Staff Recommended Charge to Storm Reserve	$2,826,230
Staff Recommended Adjustment	$5,261,887

Position of the Parties

FPL: Yes. FPL has charged vehicle costs to the Storm Damage Reserve consistent with the methodology in the 1993 Study approved by the Commission in the 1995 Order. No adjustment should be made.

OPC: No. FPL would have incurred the fixed costs and normal operating costs of its vehicles in any event. The amount charged to the storm reserve should be limited to one half the fuel cost charged to the storm, reflecting the additional shifts during which the vehicles were operated. The amount of $5.26 million should be disallowed

FIPUG: Agree with OPC: FPL would have incurred the fixed costs and normal operating costs of its vehicles in any event. The amount charged to the storm reserve should be limited to one half the full cost charged to the storm, reflecting the additional shifts during which the vehicles were operated. The Commission should disallow $5,261,887 from the amount that FPL charged to the storm damage reserve.

AARP: No. FPL would have incurred the fixed costs and normal operating costs of its vehicles in any event. The amount charged to the storm reserve should be limited to one half the fuel cost charged to the storm, reflecting the additional shifts during which the vehicles were operated. $5.261 million.

TWOMEYS: No. FPL would have incurred the fixed costs and normal operating costs of its vehicles in any event. The amount charged to the storm reserve should be limited to one half the fuel cost charged to the storm, reflecting the additional shifts during which the vehicles were operated. $5.261 million.

FRF: No. Through its claimed storm-related costs, FPL is attempting to require its customers to pay twice for basic levels of vehicle fleet expenses. The Commission should disallow $5.26 million of the amount that FPL seeks to recover through its proposed surcharges.

Staff Analysis: OPC's position makes two contradictory statements. First, OPC states that vehicle costs charged to the storm reserve should be limited to one half of the fuel costs charged to the storm reserve. Then, OPC states that an adjustment should be made to FPL's proposed

charge to the storm reserve in the amount of $5.26 million. In its response to OPC Interrogatory No. 31, the utility provided a breakdown of vehicle costs charged, or proposed to be charged, to the storm reserve. This breakdown reflected total vehicle costs of $8,088,177, including fuel costs of $947,140. (EXH 18) FPL's response also identified $5,261,887 as the amount of vehicle costs included in its 2004 budget, but did not provide a breakdown of this amount by category. In its response, the utility also agreed that $5,261,887 was the amount the utility would have incurred in the normal course of business, whether or not there were hurricanes. (EXH 18) FPL identified one half of the fuel costs charged to the storm damage reserve as $473,570, but did not agree that costs in excess of that amount should be disallowed. (EXH 18) There is nothing in the record quantifying the amount of fuel costs included in FPL's budgeted amount of $5,261,887. An adjustment to limit vehicle expense to one half of the fuel costs would be $7,614,607 (the excess of $8,088,177 over $473,570). This is in contrast to the adjustment of $5,261,887 proposed by OPC witness Majoros (TR 404)

In its brief, FPL states that it has charged vehicle expenses to the storm reserve in accordance with the Actual Restoration Cost Approach. (FPL BR 13) As discussed in Issues 1 and 2, staff does not believe that the methodology proposed by FPL in the 1993 Study is or should be the standard of review in this case. FPL also argues that, even if OPC's proposed incremental approach is used, the proposed adjustment of $5,261,887 should be decreased by $2.4 million, because that portion of the budgeted amount was related to capital projects. (FPL BR 13) (TR 111). OPC objects to this rationale, stating that FPL does not differentiate between capital costs and operating expenses in its breakdown of charges to the storm reserve. (FPL BR 20) (TR 399)

Staff believes that an adjustment allowing only one half of the fuel cost charged to the reserve would be excessive, and is not supported by the record, including OPC witness Majoros' testimony. Staff believes that, in order to prevent customers from being charged twice for the same cost, it is appropriate to remove from the vehicle costs charged to the storm reserve the amount identified by FPL as the cost it would have incurred whether or not the hurricanes occurred. Accordingly, staff recommends that the vehicle expenses included in FPL's charges to the storm reserve be reduced by $5,261,887.

Issue 10: Has FPL properly determined the costs of call center activities that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: Yes. Only incremental costs of call center activities were charged to the storm reserve. No adjustment is necessary. (Kyle)

Position of the Parties

FPL: Yes. FPL has charged incremental costs of the call center operation to the Storm Damage Reserve consistent with the methodology in the 1993 Study approved by the Commission in the 1995 Order. No adjustment should be made.

OPC: OPC recommends no adjustment because FPL charged no call center expenses to the reserve. OPC is not at issue with FPL with respect to call center activities.

FIPUG: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

AARP: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

TWOMEYS: FPL's storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

FRF: No; FPL has not appropriately determined and quantified such costs. FPL's claimed storm-related costs should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred.

Staff Analysis: In his direct testimony, OPC witness Majoros stated: "Call center expenses for the storm recovery should be limited to the call overloads created by the storms. I do not have sufficient information to make an adjustment for call center expense at this time." (TR 404) In his rebuttal, FPL witness Davis responded that call center costs charged to the storm reserve consisted of incremental costs of staffing the function and training employees. (TR 101, 112) During cross examination, Mr. Majoros admitted that he had no evidence that FPL charged anything other than incremental call center costs to the storm reserve. (TR 470)

In its brief, OPC states that, based on Mr. Davis' testimony, FPL properly determined the costs of call center activities that should be charged to the storm reserve, and charged only incremental call center costs to the reserve. (OPC BR 21) FRF has stated in its position that FPL has not properly quantified the costs of call center activities charged to the storm reserve; however, neither FRF nor any other party has stated an amount by which the reserve should be adjusted for call center costs.

Staff agrees with FPL and OPC that only appropriate incremental costs of call center activities have been charged to the storm reserve. Accordingly, staff recommends that no adjustment should be made.

Issue 11: Has FPL appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the storms? If not, what adjustments should be made?

Recommendation: No. The Commission should disallow $1,552,410 of the amount FPL charged to the storm reserve. This amount represents the difference between the advertising expense that was incurred and the amount that was originally budgeted for 2004. Further, in the future, FPL should exclude budgeted advertising and public relations expense from its storm reserve. (Joyce)

ADVERTISING/PUBLIC RELATIONS EXPENSE	
FPL Requested Charge to Storm Reserve	$1,703,454
Staff Recommended Charge to Storm Reserve	$151,044
Staff Recommended Adjustment	$1,552,410

Position of the Parties

FPL: Yes. Consistent with the methodology in the 1993 Study approved by the PSC in the 1995 Order, the only advertising or public relations expenses that were charged to the Storm Damage Reserve are safety and storm-related public service advertising. No adjustment should be made.

OPC: No. FPL has a basic obligation as a public utility to keep its customers informed, particularly during emergencies. Customers should not be required to pay a surcharge to receive the benefits of this basic function. All advertising and/or public relations expense that FPL charged to the storm reserve, amounting to $1.7 million, should be disallowed.

FIPUG: Agree with OPC: The amount of the negative deficiency calculated by FPL should be reduced by $1,700,000.

AARP: No. The amount of the negative deficiency calculated by FPL should be reduced by $1,700,000.

TWOMEYS: No. The amount of the negative deficiency calculated by FPL should be reduced by $1,700,000.

FRF: No. FPL has a basic obligation to keep its customers informed, particularly during emergencies. The Commission should disallow $1.7 million of advertising and public relations expense that FPL charged to the storm reserve. (EXH 34, Int. No. 33)

Staff Analysis: FPL stated that it charged safety and storm-related public service advertising and media costs to the storm reserve consistent with the Actual Restoration Cost Approach. (FPL BR 14) FPL witness Whalin testified that the Company provides information to the news media, customers, and community leaders regarding storm preparation, what to do in the event of

an outage, as well as public safety messages. (TR 18) FPL witness Davis testified that all capital costs and all O&M costs incurred in connection with the three named hurricanes have been charged to the storm reserve. (TR 84) In response to OPC Interrogatory No. 33, FPL noted that it spent $1,703,453.54 in advertising for the 2004 hurricane season. (EXH 34)

OPC stated that as part of its Storm Damage Guidelines, all advertising expense (which includes any public relations expenses) should be excluded from the amount charged to the storm account. (TR 390) OPC stated that the purpose of its guidelines is to ensure that only extraordinary expenses are booked to the storm reserve. (TR 389) OPC argued that customers should not be required to pay a surcharge to receive the benefits of the basic function of keeping customers informed -- particularly during emergencies. OPC contends that ensuring public safety is part of the regulatory framework under which FPL is required to provide safe, reliable electric service within its territory. OPC further argued that FPL is obligated to restore service to customers as quickly and safely as possible after hurricanes, and that part of restoring service safely is making sure customers have current information regarding the emergency. Thus, OPC contends that the $1,703,453.54 charged to the storm reserve should be removed. (OPC BR 22-23)

Staff agrees with OPC that FPL should book only extraordinary expenses to the storm reserve account. The storm related costs that should be booked to the storm reserve should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred. In response to Interrogatory No. 33(c), FPL stated that total advertising costs in the amount of $9,950,674 were incurred during 2004. FPL also stated that advertising expense in the amount of $9,799,630 was included in the 2004 budget. Staff recommends that FPL should only be allowed to book $151,044 to the storm reserve, which is the difference between the advertising expense that was incurred and the amount that was originally budgeted for 2004. As such, $1,552,410 ($1,703,454 less $151,044) should be disallowed.

Staff also agrees with OPC that communication is an important function that must be performed during an emergency. Ensuring public safety is part of the regulatory framework under which FPL is required to provide safe, reliable electric service within its territory.

Issue 12: Has uncollectible expense been appropriately charged to the storm reserve? If not, what adjustments should be made?

Recommendation: FPL has not charged any uncollectible expense to the storm reserve. If the Commission follows the utility's Actual Restoration Cost Approach, no adjustment should be made. However, if the Commission follows the Modified Incremental Cost Approach recommended by staff, uncollectible expense is addressed in Issue 15. (Joyce)

Position of the Parties

FPL: FPL has not charged the Storm Damage Reserve with uncollectible accounts expense. If the Commission follows the methodology in the 1993 Study approved by the Commission in the 1995 Order, no adjustment should be made.

OPC: It is inappropriate to charge any portion of uncollectible expense to the storm damage reserve. It appears that FPL has not charged any uncollectible expense to the storm damage reserve. OPC is not at issue with FPL on the subject of uncollectible expense.

FIPUG: FPL should not charge uncollectible expense to the storm damage reserve.

AARP: It is inappropriate to charge any portion of uncollectible expense to the storm damage reserve. It appears FPL has not made any such charges.

TWOMEYS: It is inappropriate to charge any portion of uncollectible expense to the storm damage reserve. It appears FPL has not made any such charges.

FRF: No. Uncollectible expense is not properly charged to the storm damage reserve because it is foreign to the restoration effort. No uncollectible expense should be allowed for recovery through this proceeding.

Staff Analysis: Under OPC's Storm Damage Guidelines, no uncollectible expense should be booked to the storm reserve. (TR 390-391) Further OPC stated that based on FPL response to Interrogatory No. 38, it appears that FPL has not charged any "uncollectible expense" to the storm reserve.

FPL witness Davis mentioned that the Company estimates that uncollectible accounts receivable increased nearly $6 million as collection efforts were suspended because the field collectors were mobilized for storm duty. (TR 109) However, in response to Interrogatory No. 38, when asked if the Company included an "uncollectible expense" in the amounts that it booked or proposed to book to the storm reserve, FPL answered "No." (EXH 34 – Interrogatory No. 38)

FPL witness Davis stated that there is no dispute over this issue. FPL has not charged any uncollectible accounts receivable write-off expense to the Reserve. (TR 144) He also stated that Mr. Majoros acknowledged that he has no evidence to the contrary. (TR 471)

Staff agrees with FPL that there is no dispute over the amount of uncollectible expenses being charged to the storm reserve since FPL has not charged any uncollectible expense to the

storm reserve. If the Commission follows the utility's Actual Restoration Cost Approach, no adjustment should be made. However, if the Commission follows the Incremental Approach recommended by staff, uncollectible expense is addressed in Issue 15.

Issue 13: Of the costs that FPL has charged or proposes to charge to the storm reserve, should any portion(s) instead be booked as capital costs associated with its retirement (including cost of removal) and replacement of plant items affected by the 2004 storms? If so, what adjustments should be made?

Recommendation: Yes. FPL should charge the normal cost of replacements, approximately $58 million, to rate base as plant in service. FPL should also charge the normal cost of removal, approximately $12.2 million, to the cost of removal reserve. In addition, the $21.7 million classified as Contributions in Aid of Construction (CIAC) should not be charged against the storm reserve. (Haff, Slemkewicz)

	Plant in Service	Cost of Removal	CIAC
Requested by Company	$58,000,000	$12,200,000	$21,700,000
Recommended by Staff	0	0	0
Adjustment	($58,000,000)	($12,200,000)	($21,700,000)

Position of the Parties

FPL: No. FPL has appropriately accounted for additions, retirements and removal costs in accordance with the methodology in the 1993 Study approved by the Commission in the 1995 Order.

OPC: Yes. FPL should be required to book the normal cost of replacements to plant in service and the normal cost of removal to the cost of removal reserve. The Commission should require FPL to charge $58 million to rate base for plant additions and charge $28 to $36 million to the cost of removal reserve. The Commission should reject FPL's proposal to charge $21.7 million of "CIAC" to the storm damage reserve.

FIPUG: Yes. FIPUG adopts the OPC's findings with respect to cost of removal and recommends that an appropriate amount of the remaining storm asset restoration cost be applied to the depreciation reserve rather than to the storm reserve. The storm damage deficit surcharge should be reduced accordingly. FIPUG demands that FPL provide proof of the appropriate amount of storm damage cost to be capitalized.

AARP: Yes. FPL should be required to book the normal cost of replacements to plant in service and the normal cost of removal to the cost of removal reserve. The Commission should require FPL to charge $27 million to rate base and charge $36 million to the cost of removal reserve.

TWOMEYS: Yes. FPL should be required to book the normal cost of replacements to plant in service and the normal cost of removal to the cost of removal reserve. The Commission should require FPL to charge $27 million to rate base and charge $36 million to the cost of removal reserve.

FRF: Yes. FPL should book to Plant In Service the amounts that it would normally spend on plant and charge the excess to the storm reserve. FPL's proposal to charge $27 million to the storm reserve as CIAC should be disallowed. Additionally, FPL's allowed storm costs should be offset by approximately $28 million to $36 million of removal costs for which FPL's customers have already paid through the depreciation charges embedded in base rates.

Staff Analysis: FPL witness Davis identified approximately $58 million of capital additions that were necessary to return FPL's electric system to its pre-storm condition. (TR 117, 145) Approximately $36.4 million of "plant in service" was removed from service and retired due to storm damage. (TR 117, 145, 161) Witness Davis identified approximately $12.2 million for the cost of removal of storm-damaged plant items. (TR 117, 145, 161) Witness Davis also stated that it was necessary to record $21.7 million of Contributions in Aid of Construction (CIAC) to restore the accounts to their pre-storm levels. (TR 117, 145)

FPL believes that all storm-related plant additions and cost of removal should be charged to the storm reserve. This is consistent with the Actual Restoration Cost Approach proposed by the Company. FPL's proposed treatment is consistent with the way that replacement cost insurance works. However, the intervenors assert that costs for new plant additions under normal operating conditions should be booked to plant in service rather than the storm reserve. The intervenors further assert that only new plant additions that exceed this level should be booked to the storm reserve. While there is disagreement over how the $58 million in capital additions should be booked, there appears to be no disagreement over the dollar amount.

As discussed in previous issues, staff recommends that FPL's storm reserve be adjusted to remove items normally related to base rates. Consistent with that approach, staff recommends that the $58 million of capital costs associated with storm recovery efforts should be booked to rate base, as plant in service.

The intervenors disagree with how FPL booked cost of removal and with FPL's estimate of the cost of removal. OPC witness Majoros testified that FPL's storm-related removal costs should have been as high as $36.4 million, equaling the level of retired plant. (TR 435). Historic plant balance and depreciation reserve activity from FPL's 2004 Depreciation Study, shows that poles, towers, and overhead lines for transmission and distribution have experienced costs of removal ranging from 88% to 162% of the amount of retirements. (EXH 37) Using historical data as a comparison, it might be expected that FPL's cost to remove and retire $36.4 million of plant from service would far exceed the $12.2 million figure given by FPL witness Davis. However, witness Davis testified that FPL's estimate for removal costs was taken from the FPL work management system, which tracks labor and other costs required to perform particular tasks. (TR 164, 167, 208)

Staff recommends that it is appropriate to use FPL's $12.2 million removal cost estimate because this value was based on storm restoration activity tracked by FPL's work management system. This value is closer to FPL's actual removal cost than historic plant removal activity might indicate. Historic activity might be influenced by a number of factors such as age of retired plant or other unusual events. (TR 164-166) The goal is to book the actual cost of removal.

FPL witness Davis agreed that charging all capital costs to the storm reserve entailed quantifying the normal plant account amount and then adjusting that amount by an additional entry called CIAC. (TR 203-204) Witness Davis went on to further state that the adjustment was not really CIAC, but was the equivalent of it. The purpose of the $21.7 million "CIAC" adjustment was to reduce the $58 million of new gross plant back to the estimated $36 million of property retired as a result of the hurricanes. (TR 204) OPC witness Majoros testified that this CIAC adjustment was an artificial mechanism for aging new replacement plant items to a predetermined level equal to that which existed prior to the storms and should not be allowed. (TR 407) Staff agrees with witness Majoros that charging $21.7 million of "CIAC" against the storm damage reserve is not appropriate.

In conclusion, staff recommends that $58 million of capital costs should be booked to rate base as plant in service rather than to FPL's storm reserve. Further, $12.2 million of removal costs should be booked to the cost of removal reserve rather than to the storm reserve. Staff also recommends that the $21.7 million classified as CIAC not be charged against the storm reserve.

Issue 14: Has FPL appropriately quantified the costs of materials and supplies used during storm restoration that should be charged to the storm reserve? If not, what adjustments should be made?

Recommendation: Yes. FPL has properly quantified the costs of materials and supplies used during restoration that should be charged to the storm reserve. Therefore, no adjustment is necessary. (Joyce)

Position of the Parties

FPL: Yes. Materials and supplies inventory costs directly related to storm restoration activities were appropriately charged to the Storm Damage Reserve in accordance with the 1993 Study approved by the Commission in the 1995 Order. No adjustments should be made

OPC: FPL should charge only the costs of the materials and supplies used during restoration activities to the storm reserve. It should not charge the costs of replenishing supplies and inventories to the reserve. To the extent the Company has charged normal, annual costs to the storm account, that amount should be eliminated from amounts charged to the storm damage reserve. The difference between budgeted and actual costs of $1.5 million should be removed.

FIPUG: FPL should provide proof that it is seeking recovery only for incremental materials and supplies required to restore its system.

AARP: FPL should charge only the costs of the materials and supplies used during restoration activities to the storm reserve. It should not charge the costs of replenishing supplies and inventories to the reserve. To the extent the Company has charged normal, annual costs to the storm account, that amount should be eliminated from amounts charged to the storm damage reserve. The difference between budgeted and actual costs of $1.5 million should be removed.

TWOMEYS: FPL should charge only the costs of the materials and supplies used during restoration activities to the storm reserve. It should not charge the costs of replenishing supplies and inventories to the reserve. To the extent the Company has charged normal, annual costs to the storm account, that amount should be eliminated from amounts charged to the storm damage reserve. The difference between budgeted and actual costs of $1.5 million should be removed.

FRF: No; FPL has not appropriately quantified such costs. FPL's claimed storm-related costs, including materials and supplies costs, should be limited to those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred. The Commission should disallow $1.5 million of claimed materials and supplies costs.

Staff Analysis: Under OPC's Storm Damage Guidelines, only those costs of materials and supplies that exceed the material and supplies expense anticipated under normal operations should be charged to the storm reserve. (TR 390) FPL witness Davis testified that the materials and supplies budget for Power Systems was almost spent in its entirety ($26.9 million vs. $25.4 million), yet incrementally more was spent on the storm restoration. (TR 101) Witness Davis claims that any adjustment would be insignificant because virtually the entire 2004 budget was spent without consideration of the amounts charged to the storm reserve. (TR 112) OPC argued

that although witness Davis claims the amount between the budgeted amount and actual amount spent is insignificant, the amount totals $1.5 million. While this amount is not large in relation to the total dollar amount FPL is asking for in this docket, OPC asserts that protecting the customers from potential "double dipping" by the Company under any circumstances is significant regardless of the dollar amounts involved and that all dollars associated with this "double dipping" should be eliminated. (OPC BR 26)

OPC also contends that FPL should not charge the costs of replenishing supplies and inventories to the storm reserve. According to OPC, since there is a difference between the budgeted and actual costs for materials and supplies, the Company has not taken into account the normal, annual costs of replenishing materials and supplies. OPC states that to the extent the Company has charged normal, annual costs to the storm account, that amount – or $1.5 million - should be removed. (OPC BR 26)

FPL contends that there is no dispute over this issue. FPL stated that OPC's position in the Prehearing Order is that "FPL should charge only the costs of the materials and supplies used during restoration activities to the storm reserve. It should not charge the costs of replenishing supplies and inventories to the reserve." FPL further stated that OPC witness Majoros acknowledged that he has no evidence that FPL has charged materials and supplies inventory costs to the storm reserve in a manner inconsistent with OPC's position. (TR 471) Lastly, FPL witness Davis testified that virtually the entire 2004 budget for materials and supplies was spent without regard to the amounts charged to the storm reserve. (TR 112)

Staff agrees that FPL should charge only the costs of materials and supplies used during restoration activities to the storm reserve and should not charge the costs of replenishing supplies and inventories to the reserve. FPL has stated that it has not charged any replenishment costs to the storm reserve. Further, OPC witness Majoros acknowledged that he had no evidence that FPL has charged materials and supplies inventory costs to the storm reserve in a manner inconsistent with OPC's position. Staff agrees that FPL has not charged any costs of materials and supplies to the storm reserve. Therefore, staff recommends that no adjustment should be made.

Issue 15: If the Commission does not apply, in this docket, the methodology applied by FPL for charging expenses to the storm reserve pursuant to the study filed on October 1, 1993 by the Company and addressed by the Commission in Order No. PSC-95-0264-FOF-EI in Docket No. 930405-EI, should the Commission take into account:

a) Revenues lost by the Company due to the disruption of customer service during the 2004 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 which must be postponed due to the urgency of the storm restoration and accomplished after the restoration was completed (catch-up work);

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

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

Primary Staff Recommendation: If the Commission approves staff's recommendation on Issues 1 and 2 and uses a Modified Incremental Cost Approach rather than the Actual Restoration Cost Approach proposed by FPL, lost revenues and uncollectible accounts should be taken into account but not backfill work, catch-up work and expenses associated with contractors and outsides services. In taking into account lost revenues, the Commission should not consider lost revenues as indirect costs but should recognize that the normal O&M costs charged to the storm reserve by FPL and removed by staff in previous issues as recovered in base rates, were not recovered in base rates due to lost revenues. Therefore, the Commission should recognize lost revenues by including normal O&M costs that were not recovered in base rates totaling $33,814,297 and include uncollectible accounts receivable write-offs totaling $6,000,000 for a total of $39,814,297. The backfill work, catch-up work and expenses associated with contractors and outside services of $16,000,000 should not be taken into account. Furthermore, any recoveries of the directly-related uncollectible expense should be credited to reduce the amount of unrecovered storm damage costs. Moreover, directly-related uncollectible expense will be subject to the cumulative true-up at the end of the recovery period. (Romig, Devlin)

	Lost Revenue	Catch-up & Backfill Overtime	Incremental Contractor & Outside Services	Uncollectible Accounts Receivable Write-Offs	TOTAL
Requested by Company	38,200,000	9,000,000	7,000,000	6,000,000	60,200,000
Recommended by Staff	33,814,297	0	0	6,000,000	39,814,297
Staff Adjustment	4,385,703	9,000,000	7,000,000	0	20,385,703

Alternate Staff Recommendation: Alternate staff only disagrees with primary staff on the issue of lost revenues. Alternate staff recommends that the Commission not take into account any of the $38.2 million of lost revenues. (Willis)

Position of the Parties

FPL: Yes. If the Commission departs from the methodology in the approved study, it should take into account impacts on the Company and expenses incurred that were directly caused by the hurricanes, but not charged to the Reserve. Such impacts and adjustments would include $38.2 million in lost base rate revenues, $9.0 million in overtime (catch-up work), $6 million in uncollectible accounts receivable write-offs directly related to the storms, and $7.0 million in incremental expenses associated with contractors and outside services.

OPC:

a. Lost revenues due to the impact of the 2004 storm season:

No. The storm reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system. "Lost revenues" are not *costs* at all, and labeling them as such does not make them so..

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):

Only if the Commission first requires FPL to remove regular payroll costs from the storm reserve should it consider this category of overtime. The burden is on FPL to demonstrate and document that there was such overtime, and that it was caused directly by loss of personnel to storm assignments.

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

Only if the Commission first requires FPL to remove regular, normal payroll costs from the storm reserve should it consider a claim for "catch-up" work. Further, the burden is on FPL to demonstrate that (a) specific catch-up work exists after the modifications, replacements and improvements, and (b) such work cannot be performed, as a result of the budgeting and scheduling processes, by employees during regular hours or by contractors during the normal amount of budgeted contract work.

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

Uncollectible accounts receivable, consisting of money owed to FPL that FPL decides to write off, are not *costs*, and labeling them as such does not make them so. Further, the amount of uncollectibles "directly related to the storms" would be speculative. Finally, this item is duplicative of both "uncollectible expense" and "lost revenues," neither of which is properly charged to the storm reserve.

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

See (c) above for OPC's position on item "e".

FIPUG: Agree with OPC.

AARP: a. Lost revenues due to the impact of the 2004 storm season:

No. The storm damage reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system.

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):

Only if the Commission first requires FPL to remove regular payroll costs from the storm reserve should it consider this category of overtime.

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

Only if the Commission first requires FPL to remove regular, normal payroll costs from the storm reserve should it consider a claim for "catch-up" work.

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

No. The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system. Uncollectible accounts receivable, consisting of money owed to FPL that FPL decides to write off, are not *costs,* and labeling them as such does not make them so.

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

No. The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system.

TWOMEYS: a. Lost revenues due to the impact of the 2004 storm season:

No. The storm damage reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system.

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):

Only if the Commission first requires FPL to remove regular payroll costs from the storm reserve should it consider this category of overtime.

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

Only if the Commission first requires FPL to remove regular, normal payroll costs from the storm reserve should it consider a claim for "catch-up" work.

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

No. The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system. Uncollectible accounts receivable, consisting of money owed to FPL that FPL decides to write off, are not *costs,* and labeling them as such does not make them so.

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

No. The storm damage reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system.

FRF: Agree with the Office of Public Counsel.

a. Lost revenues due to the impact of the 2004 storm season d. Uncollectible accounts receivable write-offs directly related to the storms

Primary Staff Analysis: (Romig, Devlin)

OPC and the other intervenors contend that charges to the storm reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system. OPC states that, "'Lost revenues' are not *costs* at all, and labeling them as such does not make them so." (OPC BR 27-28) Further, the scope of recoverable storm costs adopted by OPC and endorsed by OPC witness Majoros specifically excludes recovery of lost revenues. (TR 390-391) Through redirect, Mr. Majoros pointed out that lost revenues are not a cost incurred to restore service. (TR 471-472) Additionally, OPC believes that it is improper to take into account estimated lost revenues without also quantifying the gains in revenue due to post hurricane economic activities. (OPC BR 29) However, during cross-examination, OPC witness Majoros agreed that he had no reason to dispute the calculation of the $38.2 million in base rate revenue loss. (TR 452-453)

FPL's position is that if the Commission utilizes an incremental approach for charging storm costs to its storm reserve, the impact of lost base rate revenues should be taken into account. (FPL BR 18) In his prefiled direct testimony, FPL witness Davis points out that during the hurricanes there were very significant outages during which sales and corresponding revenues were lost. Further, he testified that while hurricanes result in a reduction of some base rate costs because those costs are charged to the storm reserve, there are also reductions of base rate revenues. (TR 107-109) As articulated by FPL witness Davis and as agreed to by OPC witness Majoros, for the company to experience no base rate effect from the hurricanes, base rate expenses and base rate revenues would have to decrease by the same amount. (TR 107-109, 453) To recognize this result, FPL believes that under the incremental approach, the lost revenues should be considered an incremental cost and included as part of storm damage costs. FPL calculates lost base rate revenues due to the impact of the 2004 storm season to be $38.2 million. (EXH 26)

Staff agrees that lost revenue is not a cost. However, normal operating costs are costs. These normal operating costs should be removed from the storm costs to the extent they are recovered in base rates in order to avoid double recovery. However, in setting rates, the Commission sets base rates not only on the basis of the company's projected expenses, but also on the expectation of the company realizing certain revenues. Because of the outages resulting

in lost revenue and increased uncollectibles due to the storms, it is reasonable to assume that the normal costs that were charged to the storm reserve have not been recovered in base rates and should be eligible for recovery in the storm recovery mechanism.

Regarding uncollectible accounts receivable write-offs, FPL takes the position that if an incremental cost approach is used, uncollectible accounts receivable write-offs directly related to the storms should be charged against the storm reserve. (FPL BR 18) In his prefiled rebuttal testimony, FPL witness Davis states that, "the Company estimates that uncollectible accounts receivable increased nearly $6 million as collection efforts were suspended because field collectors were mobilized for storm duty." (TR 109)

OPC and the other intervenors take the position that the storm reserve should be limited to incremental, extraordinary costs of restoring service and repairing the physical system. Further, OPC asserts that uncollectible accounts receivable, consisting of money owed to FPL that FPL decides to write off, are not costs. OPC also takes the position that the amount is speculative. OPC witness Majoros stated that OPC's proposed guidelines, which he endorsed, are designed to ensure that only extraordinary expenses would be booked to the storm reserve and these guidelines specifically exclude uncollectible expense. (TR 390-391) FPL takes the position that if an incremental cost approach is used, uncollectible accounts receivable write-offs directly related to the storms should be charged against the storm reserve. (FPL BR 18) In his prefiled rebuttal testimony, FPL witness Davis states that, "the Company estimates that uncollectible accounts receivable increased nearly $6 million as collection efforts were suspended because field collectors were mobilized for storm duty." (TR 109)

Staff believes that there is a direct relationship between hurricane activity and the amount of bad debt expense incurred. Staff also believes that bad debt expense is not excludable from recovery through the storm reserve simply because it does not fall into the category of repairing FPL's system and restoring service.

Furthermore, the recovery of uncollectible accounts receivable write-offs directly related to the storms was a consideration in the Commission's recent decision to allow Progress Energy Florida to recover $231.8 million in storm damage from customers. In the Commission's vote, at the June 21, 2005 agenda, in Docket No. 041272-EI, In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc., the Commission voted to include directly related uncollectible accounts receivable write-offs of $2.25 million.

Consequently, staff believes that the Commission should take into account the incremental $6.0 million of directly-related uncollectible expense. Furthermore, any recoveries of the directly-related uncollectible expense should be credited to reduce the amount of unrecovered storm damage costs. Moreover, directly-related uncollectible expense will be subject to the cumulative true-up at the end of the recovery period.

In conclusion, the Commission should not consider lost revenues as indirect costs but should recognize that the normal O&M costs charged to the storm reserve by FPL and removed by staff in previous issues as recovered in base rates, were not recovered in base rates due to lost

revenues. Therefore, the Commission should recognize lost revenues by including normal O&M expenses that were not recovered in base rates totaling $33,814,297 and include uncollectible accounts receivable write-offs totaling $6,000,000, for a total of $39,814,297.

Alternate Staff Analysis: (Willis)

As stated in staff's primary recommendation concerning the issue of lost revenues, FPL's position is that if the Commission were to utilize an incremental approach for charging its storm costs to its storm reserve, the impact of lost base rate revenues should be taken into account. (FPL BR 18) In his prefiled direct testimony, FPL witness Davis points out that during the hurricanes there were very significant outages during which sales and corresponding revenues were lost. (TR 107-109) As articulated by FPL witness Davis and as agreed to by OPC witness Majoros, for the Company to experience no base rate effect from the hurricanes, base rate expenses and base rate revenues would have to decrease by the same amount. (TR 107-109, 453) To recognize this result, FPL believes that under the incremental cost approach, the lost revenues would be considered an incremental cost that should be considered when calculating the storm damage cost. Because of the outages resulting in lost revenue and increased uncollectibles due to the storms, a certain amount of normal costs have not been recovered in base rates and should be eligible for recovery in the storm recovery mechanism.

OPC and the other intervenors contend that the storm reserve should be limited to the incremental and extraordinary costs of restoring service and repairing the physical system. Further, OPC states that, 'Lost revenues' are not costs at all, and labeling them as such does not make them so." (OPC BR 27-28) Further, the scope of recoverable storm costs adopted by OPC and endorsed by OPC witness Majoros specifically excludes recovery of lost revenues. (TR 390-391) Through redirect, Mr. Majoros pointed out that lost revenues are not a cost incurred to restore service and they are not related to any of his O&M adjustments. (TR 472) Additionally, OPC believes that it is improper to take into account estimated lost revenues without also quantifying the gains in revenue due to post hurricane economic activities. (OPC BR 29)

The Commission has recently approved two stipulations that did not provide for the recovery of lost revenues. The first was Order No. PSC-05-0250-PAA-EI, issued March 4, 2005, in Docket No. 050093-EI, In re: Petition for approval of stipulation and settlement for special accounting treatment and recovery of costs associated with Hurricane Ivan's impact on Gulf Utility Company. On page 20 of the order, paragraph H, the stipulation states that Gulf Power should not book any lost revenues to the property insurance reserve. The second was Order No. PSC-05-0675-PAA-EI, issued June 20, 2005, in Docket No. 050225-EI, In re: Joint petition of Office of Public Counsel, Florida Industrial Power Users Group, and Tampa Electric Company for approval of stipulation and settlement as full and complete resolution of any and all matters and issues which might be addressed in connection with matters regarding effects of Hurricanes Charley, Frances, and Jeanne on Tampa Electric Company's Accumulated Provision for Property Insurance, Account No. 228.1.

The recovery of lost revenues also was not a consideration in the Commission's recent decision to allow Progress Energy Florida to recover $231.8 million in storm damage from customers. In the Commission's vote, at the June 21, 2005 Agenda Conference, in Docket No.

041272-EI, In re: Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc., the Commission specifically excluded $17.9 million in normal costs but did not address any need for recovery of lost revenues.

As mentioned above, FPL contends that because of the outages resulting in lost revenue and increased uncollectibles due to the storms, a certain amount of normal costs have not been recovered in base rates and should be eligible for recovery in the storm recovery mechanism. (TR 49) Alternative staff believes that to determine whether a certain amount of normal cost has actually been recovered requires a review of the company's earnings. According to FPL's Earnings Surveillance Report as of December 31, 2004, the Company earned a 12.68% return on equity. (EXH 43) If the company had booked the net normal costs of $33,814,297 during calendar year 2004, the achieved return on equity would have been reduced by approximately 39 basis points to 12.29%. Pursuant to the Stipulation currently governing FPL's base rates, FPL does not have an actual authorized rate of return[10]. However, the Stipulation does use an 11% equity midpoint for all other purposes, such as cost recovery clauses and Allowance for Funds Used During Construction.[11] FPL also uses the 11% return on Equity in its earnings surveillance report to calculate the low point, midpoint and high point for the required overall rate of return. (EXH 43) One way to look at the reasonableness of the 12.29% return on equity is that it is 129 basis points above the 11% equity midpoint used in the Stipulation for all other purposes, such as cost recovery clauses and Allowance for Funds Used During Construction.[12] Therefore, alternative staff believes that FPL's 12.29% return on equity would have been a reasonable rate of return, and therefore, the normal costs of $33,814,297 have been recovered in base rates.

Alternate staff agrees with witness Majoros that lost revenues are not a cost of restoring service and therefore not related to any of staff's proposed adjustments to the costs to be recovered. To allow the utility to recover "lost revenues" would in effect allow the company to charge customers for electricity which was never consumed. Alternative staff therefore recommends that none of the lost revenues of $38.2 million be allowed as a charge to the storm reserve.

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 which must be postponed due to the urgency of the storm restoration and accomplished after the restoration was completed (catch-up work); e. Incremental contractor, outside professional services and temporary labor costs due to the work postponed due to the urgency of the storm restoration and accomplished after the restoration was completed. (Romig)

According to FPL, backfill work, catch-up work, and contracted work are all incremental expenses incurred that were directly caused by the hurricanes, but not charged to the storm

10 Stipulation, 3.
11 Stipulation, 3.
12 Stipulation, 3.

reserve. (TR 48) FPL described catch-up work as normal operations and maintenance work that has been postponed due to the urgency of the storm restoration and repairs. It still must be performed and accomplished after the restoration is completed. FPL witness Williams discussed two examples of catch-up type work, the relocation of facilities due to a customer-required road widening and pole replacements. According to witness Williams, typically, a road project's overall deadline does not change and a certain number of poles must be replaced according to need, regardless of the hurricane-damaged poles. Catching up this type of work impacts normal ongoing operations until the backlog is completed, either through additional overtime hours or engaging additional contractors, the incremental cost of which is not charged to the storm reserve. (TR 516, 568) As articulated by FPL, backfill work, "is similar to catch-up work except that it is performed by a limited number of employees who remain behind during the storm restoration activities to address only the most pressing distribution related issues such as a thunderstorm caused outage." According to FPL, catch-up work and backfill work are real costs that are unavoidable.

As stated by FPL witness Davis, the company "mobilizes all available employees with one common objective – restore power to customers as safely and as quickly as possible. This effort required the involvement of linemen and other field personnel." Witness Davis goes on to describe why backfill and catch-up work take place. While linemen and other field personnel are working on the actual restoration, staff personnel support the field efforts by various means, including but not limited to, organizing and running restoration sites and distributing food to crews in the field. Further,

> [A]s a result, the duties normally performed by staff personnel do not go away; they are merely deferred or performed by others during storm restoration. Both the backfill and catch-up work necessary to ensure that these duties are caught up generally involve overtime or the use of contractors or temporary labor that is charged to normal operating expense, not to the Storm Damage Reserve. The company incrementally spent $7.0 million on contractors and outside professional services and $9.0 million of overtime was charged to normal operating expenses during the last two months of 2004. (TR 104-105)

FPL states that completing the backfill and catch-up work impacts normal on-going operations until the backlog is completed either through additional overtime or engaging additional contractors. (TR 105-106, 579-580)

OPC and the other intervenors believe that catch-up, backfill, and incremental contractor work should be considered only if they meet certain criteria. According to OPC, "[C]atch-up, backfill, and incremental contractor work may be consistent with OPC guidelines if the catch-up, backfill, and incremental contractor work is an extraordinary expenditure that is incremental to those the utility would incur under normal circumstances." (OPC BR 29, TR 389) Second, on redirect, OPC witness Majoros stated that to be recoverable through the storm reserve, costs should be incurred to facilitate restoration activities. (TR 472) Third, OPC believes that FPL's claim for backfill and catch-up work should be considered only if the Commission removes regular, normal payroll costs. (OPC BR 30) Fourth, OPC believes that FPL has the burden to demonstrate that specific catch-up work exists after "the modifications" and that this work

cannot be performed by employees during regular hours or by contractors within the normal amount of budgeted contract work. (OPC BR 30)

Although staff does not believe that these types of costs fall into the category of extraordinary, staff believes that these costs could be considered incremental if it was determined that the specific expenditures supporting the $9.0 million and the $7.0 million were beyond regularly budgeted amounts. Staff also believes that these types of costs may have been incurred to facilitate restoration activities. Further, as shown in Issues 4 and 5, staff is recommending the removal of regular normal payroll costs.

However, staff's examination of the record in this case discloses no information regarding regularly budgeted costs for these expenditures and no calculations in support of the proposed amounts. Furthermore, staff does not believe that FPL has proven that the catch-up work and backfill work could not be performed by employees during regular hours or by contractors within the normal amount of budgeted contract work. Staff believes that the burden is on FPL to demonstrate and document that there was such overtime, and that it was caused directly by loss of personnel to storm assignments and it was not budgeted for. Staff believes that FPL failed to provide sufficient information or carry its burden to demonstrate that the catch-up and backfill amounts were incremental to those the utility would incur under normal circumstances. Staff does not believe that because these costs were incurred in the last two months in 2004 is sufficient to establish that these costs were beyond regularly budgeted amounts.

Based on the foregoing, staff recommends that the Commission should not take into account FPL's proposed $7.0 million for contractors and outside professionals and its proposed $9.0 million of overtime.

In summary, if the Commission approves staff's recommendation on Issues 1 and 2 and uses a Modified Incremental Cost Approach rather than the Actual Restoration Cost Approach proposed by FPL, lost revenues and uncollectible accounts should be taken into account but not backfill work, catch-up work and expenses associated with contractors and outsides services. In taking into account lost revenues, the Commission should not consider lost revenues as indirect costs but should recognize that the normal O&M costs charged to the storm reserve by FPL and removed by staff in previous issues as recovered in base rates, were not recovered in base rates due to lost revenues. Therefore, the Commission should recognize lost revenues by including normal O&M costs that were not recovered in base rates totaling $33,814,297 and include uncollectible accounts receivable write-offs totaling $6,000,000 for a total of $39,814,297. The backfill work, catch-up work and expenses associated with contractors and outside services of $16,000,000 should not be taken into account. Furthermore, any recoveries of the directly-related uncollectible expense should be credited to reduce the amount of unrecovered storm damage costs. Moreover, directly-related uncollectible expense will be subject to the cumulative true-up at the end of the recovery period.

Issue 16: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of storm-related costs to be charged against the storm reserve?

Recommendation: Based on staff's adjustments recommended in the previous issues, the appropriate amount of storm-related costs to be charged against the storm reserve is $794,309,025 ($798,100,000 system). (Slemkewicz)

TOTAL COSTS TO BE CHARGED AGAINST THE STORM RESERVE

Amount Requested	$890,000,000 (System)
Staff Recommended	$798,100,000 (System)
Difference	($91,900,000) (System)

If the Commission approves the alternate staff recommendation on Issue 15, staff's recommended charge to the storm reserve would be $760,655,346 ($764,285,703 system).

Position of the Parties

FPL: $890 million.

OPC: OPC's position is that the amount sought by FPL should be reduced by a minimum of $42 million (O&M) and $108 million (capital) or a total of $150 million as a result of the resolution of Issues 1-15. OPC does not agree that the adjustments from the resolution of Issues 1-15 necessarily represent that these costs are reasonable and prudent expenditures.

FIPUG: The appropriate amounts of costs are those that are incremental to the level of normal operating and maintenance expenses that would have otherwise been incurred. FIPUG agrees with OPC's figure of approximately $398.2 million.

AARP: The amount sought by FPL should be reduced by a minimum of $99.4 million as a result of the resolution of Issues 1-15.

TWOMEYS: The amount sought by FPL should be reduced by a minimum of $99.4 million as a result of the resolution of Issues 1-15.

FRF: Based on the foregoing issues, FPL's claimed storm-related costs to be charged against the storm damage reserve should be reduced by $99.66 million to $107.66 million.

Staff Analysis: Based on the adjustments recommended by staff in the preceding issues, staff recommends that the appropriate amount of storm-related costs to be charged against the storm reserve is $796,333,846 ($799,935,703 system). The following table shows staff's calculation:

FPL Estimated 2004 Storm Damage Costs (System)		$999,000,000
Less: Insurance Reimbursements		(109,000,000)
Net 2004 Storm Damage Costs		890,000,000
Less: Staff Adjustments		
Issue 4 – Non-Management Payroll Expense	(10,900,000)	
Issue 5 – Managerial Payroll Expense	(21,100,000)	
Issue 8 – Tree Trimming Expense	(1,000,000)	
Issue 9 – Vehicle Expenses	(5,261,887)	
Issue 11 – Advertising & Public Relations Expense	(1,552,410)	
Issue 13 – Replacement Capital Costs	(58,000,000)	
- Cost of Removal	(12,200,000)	
- Contributions in Aid of Construction	(21,700,000)	
Issue 15 – Normal O&M Cost Offset	33,814,297	
- Uncollectible Expenses	6,000,000	
Total System Adjustments		(91,900,000)
Adjusted for System Adjustments		798,100,000
Retail Jurisdictional Separation Factor		x 0.99525
Adjusted Jurisdictional 2004 Storm Damage Costs To Be Charged Against Storm Reserve		$794,309,025

If the Commission approves the alternate staff recommendation on Issue 15, thereby not including the lost revenues amount of $33,814,297, staff's recommended charge to the storm reserve would be $760,655,346 ($764,285,703 system).

Issue 17: Were the costs FPL has booked to the storm reserve reasonable and prudently incurred?

Recommendation: The Commission should find that the costs listed in Issue 16 as being appropriately charged to the storm reserve are reasonable and prudent. The Commission need not and should not make a finding of reasonableness or prudence for those costs that FPL booked to its storm reserve other than those listed in Issue 16. Such a finding may bind the Commission in a future proceeding concerning recovery of such costs. (Slemkewicz, C. Keating)

Position of the Parties

FPL: Yes. The $890 million in costs FPL has incurred and booked to the Storm Damage Reserve were necessary, reasonable and prudent in safely and rapidly restoring service to more than 5.35 million customers (cumulative) during the most active hurricane season on record in the State of Florida. Over 90% of those costs have already been paid or invoiced to FPL.

OPC: It is inappropriate to consider a blanket request for a single overall finding. Further, the Commission should preserve the right of any party to challenge the reasonableness and/or prudence of any expenditure during the true-up phase of the proceeding.

FIPUG: Agree with OPC: It is inappropriate to consider a blanket request for a single overall finding as to the reasonableness and prudence of the myriad of storm-related costs, totaling some $890 million that FPL says it was required to incur. Further, in the disposition of this issue the Commission should preserve the right of any party to challenge the reasonableness and/or prudence of any expenditure during the true-up phase of the proceeding.

AARP: It is inappropriate to consider a blanket request for a single overall finding as to the reasonableness and prudence of the myriad of storm-related costs, totaling some $890 million, that FPL says it was required to incur. Further, as was the case in the counterpart PEF petition (Docket No. 041272-EI), in the disposition of this issue the Commission should preserve the right of any party to challenge the reasonableness and/or prudence of any expenditure during the true-up phase of the proceeding.

TWOMEYS: It is inappropriate to consider a blanket request for a single overall finding as to the reasonableness and prudence of the myriad of storm-related costs, totaling some $890 million, that FPL says it was required to incur. Further, as was the case in the counterpart PEF petition (Docket No. 041272-EI), in the disposition of this issue the Commission should preserve the right of any party to challenge the reasonableness and/or prudence of any expenditure during the true-up phase of the proceeding.

FRF: Agree with the Office of Public Counsel.

Staff Analysis: Through this issue, FPL asks the Commission to determine the prudence of all costs - $890 million – that it booked to its storm reserve. FPL argues that its main objective after the storms was the safe and rapid restoration of service to its customers, that this objective was reasonable and prudent, and, thus, that the costs of achieving this objective were reasonable and prudent costs. This viewpoint was succinctly stated in FPL witness Williams' testimony:

> The primary objective that we have is to restore power to our customers as safely and as quickly as possible. And we will bring additional resources on the property, we will open up staging sites, we will get additional contractors, we will do everything that is humanly possible to bring resources to bear to get the lights back on as quickly as possible because as a matter of principle that is what we have got to do. Our customers are counting on it, the community is counting on it. And from my perspective these costs that make that happen are reasonable and prudent, because we know that our customers are expecting it from us, we also know that government officials are expecting it from us, we expect it from ourselves. So if it speeds up the restoration . . . it is reasonable and prudent, because it is all about getting the customers' lights back on.

(Emphasis added.) (TR 547-548)

Staff recommends that the Commission find that the costs listed in Issue 16 as being appropriately charged to the storm reserve are reasonable and prudent. At the customer service hearings in this docket, extensive testimony was offered in praise of FPL's storm restoration efforts. No party has challenged the reasonableness or prudence of these efforts. More importantly, no party has challenged the reasonableness or prudence of any specific cost among the costs listed in Issue 16 as being appropriately charged to the storm reserve. Thus, based on the record established, it appears that the costs listed in Issue 16 as being appropriately charged to the storm reserve are reasonable and prudent.

Staff believes, however, that the Commission need not and should not make a finding of reasonableness or prudence for those costs that FPL booked to its storm reserve other than those listed in Issue 16. It is unnecessary for the Commission to make such a finding with respect to costs that are not being proposed for cost recovery at this time or that the Commission believes were not appropriately charged to the storm reserve and thus not appropriate for recovery through the surcharge proposed by FPL (i.e., the costs disallowed in the previous issues). Such a finding may bind the Commission in a future proceeding concerning recovery of those costs, such as a proceeding initiated under the recently signed securitization bill or the currently pending rate case.

Staff notes that no party has challenged the reasonableness or prudence of these efforts. Further, no party has challenged the reasonableness or prudence of any specific cost among the costs listed in Issue 16 as being appropriately charged to the storm reserve. Thus, based on the record established, it appears that the costs listed in Issue 16 as being appropriately charged to the storm reserve are reasonable and prudent.

Issue 18: Is FPL's objective of safe and rapid restoration of electric service following tropical storms and hurricanes appropriate?

Recommendation: Safe and rapid restoration of electric service following service interruptions is the legal obligation of every monopoly investor-owned electric utility in Florida and is consistent with industry practice. However, because no party has challenged FPL's objectives or efforts to restore service in connection with the extraordinary storm season that affected its service territory in 2004 and the resolution of this issue has no direct bearing on the decisions to be made in this case, the Commission need not address this issue. (C. Keating)

Position of the Parties

FPL: Yes. FPL's efforts and its approach to restoration were consistent with the overarching public policy favoring prompt and safe restoration of electric service, consistent with the unwavering and oft-repeated expectations of state and local government, and consistent with the regulatory framework instituted by the Florida Public Service Commission following Hurricane Andrew.

OPC: The issue implies that FPL is assuming a burden to meet the objective of safe and rapid restoration of service that it would not otherwise undertake. The notion is nonsensical. It is in FPL's interest as it is in customers' interests when FPL endeavors to restore service rapidly and safely. Further, FPL has a regulatory obligation to provide safe and reliable electric service, including restoration of service after hurricanes or tropical storms.

FIPUG: FPL is applauded for its efforts; however, this burden—assumed in return for its retail monopoly—is not relevant to storm cost recovery.

AARP: FPL is the monopoly provider of an essential service. The response to the "issue" is found in its statutory obligations. FPL has a regulatory obligation to provide safe and reliable electric service, including restoration of service after hurricanes or tropical storms.

TWOMEYS: FPL is the monopoly provider of an essential service. The response to the "issue" is found in its statutory obligations. FPL has a regulatory obligation to provide safe and reliable electric service, including restoration of service after hurricanes or tropical storms.

FRF: The FRF objects to this issue because the FRF believes that nothing less than "safe and rapid restoration of electric service" following storms is required by Chapter 366, and accordingly, this issue appears to be framed to give FPL credit for actions that it is already obliged to take pursuant to its statutory obligation to serve.

Staff Analysis: FPL takes the position that its efforts and its approach to restoration were consistent with the overarching public policy favoring prompt and safe restoration of electric service, were consistent with the expectations of state and local governments, and were consistent with the regulatory framework established by the Commission following Hurricane Andrew. FPL states that the primary objective of its emergency preparedness plan and restoration process is to safely restore power to the greatest number of customers in the least amount of time. FPL states that this objective is consistent with the expectations of state and

local governments, and that these expectations were met or exceeded by FPL's performance. (FPL BR 23-24)

The Intervenors take the position that the issue as framed implies that FPL is assuming a burden to meet the objective of safe and rapid restoration that it would not otherwise undertake. OPC states that this notion is nonsensical. First, OPC suggests that because the only way FPL makes money is by selling electricity, it is as much in FPL's best interests as it is in the customers' best interests to restore service rapidly and safely. Second, OPC asserts that in return for FPL's ability to earn a fair rate of return in providing a monopoly service, FPL has a statutory obligation to provide reasonably sufficient, adequate, and efficient electric service to its customers and to do so in a safe and reliable manner. OPC contends that this obligation includes the responsibility to restore service to its customers as quickly and safely as possible following hurricanes. FIPUG adds that while it applauds FPL's efforts, FPL's obligation is not relevant to storm cost recovery.

Chapter 366, Florida Statutes, and Chapter 25-6, Florida Administrative Code, establish almost the entire framework under which investor-owned electric utilities like FPL are regulated by the Commission. These statutes and rules establish a regulatory framework that clearly requires electric utilities to conduct their service restoration efforts in an efficient, rapid, and safe manner. Rule 25-6.044(2), Florida Administrative Code, is directly on point: "Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall attempt to restore service within the shortest time practicable consistent with safety." The authority for this rule stems from several provisions of Chapter 366.[13] Additional statutes and rules further clarify utilities' obligations with respect to maintaining their systems in a safe and efficient manner.[14] Further, as FPL witness Geisha Williams testified, safe and rapid restoration of service is consistent with industry practice. (TR 510)

Although the answer to the question posed in this issue is clearly answered by reference to FPL's regulatory obligations, staff believes that the Commission does not need to address this issue. No party has challenged FPL's objectives or efforts to restore service in connection with the extraordinary storm season that affected its service territory in 2004, and, resolution of this issue has no direct bearing on the decisions to be made in this case.

[13] Section 366.03, Florida Statutes, provides that "[e]ach public utility shall furnish to each person applying therefore reasonably sufficient, adequate, and efficient service upon terms as required by the Commission." Sections 366.04(2)(c) and 366.04(5), Florida Statutes, empower the Commission to require reliability within a coordinated grid for operational as well as emergency purposes and establish the Commission's authority over the maintenance of the electric grid. Section 366.05(1), Florida Statutes, further establishes the Commission's power to prescribe standards of quality and service rules and regulations to be observed by each public utility.

[14] Pursuant to Section 366.04(6), Florida Statutes, and Rule 25-6.0345, Florida Administrative Code, each public utility must comply with safety standards for transmission and distribution facilities set forth in the National Electrical Safety Code. Public utilities must also operate and maintain their facilities and equipment in a safe, efficient, and proper condition (Rule 25-6.037), must establish safe work practices that affect the safety of employees (Rule 25-6.039), and must properly ground their distribution circuits to make them reasonably safe to persons and property (Rule 25-6.040).

Issue 19: Does the stipulation of the parties that the Commission approved in Order No. PSC-02-0501-AS-EI affect the amount or timing of storm-related costs that FPL can collect from customers through the proposed surcharge? If so, what is the impact?

Recommendation: The stipulation expressly provides that, in the event that there are insufficient funds in FPL's storm reserve, FPL may petition for recovery of prudently incurred costs in excess of the storm reserve. The stipulation does not require that FPL absorb such costs through earnings until its return on equity is reduced to 10% before seeking a change in rates. (C. Keating, K. Fleming)

Position of the Parties

FPL: FPL's request is consistent with, and expressly contemplated by, the Stipulation and Settlement that was executed by all parties to this proceeding, including OPC, in Docket No. 001148-EI, and approved by the Commission in Order No. PSC-02-0501-AS-EI. The Stipulation and Settlement establishes a regulatory mechanism that constitutes the "appropriate and exclusive mechanism to address earnings levels" and expressly contemplates that FPL would have the opportunity to recover expenditures incurred in the event of an extraordinary storm season

OPC: Yes. The stipulation requires FPL to absorb storm-related expenses through earnings until its ROE is reduced to 10% before modifying rates. This equates to $270,512,000 that FPL should be required to absorb through earnings.

FIPUG: Yes. FPL should be limited to recovering only such costs that would reduce its after-tax return on equity for 2004 to 10%. The remainder could be recovered through a surcharge with interest.

AARP: Yes. The stipulation requires FPL to absorb storm-related expenses through earnings until its ROE is reduced to 10% before modifying rates. This equates to $270,512,000 that FPL should be required to absorb through earnings.

TWOMEYS: Yes. The stipulation requires FPL to absorb storm-related expenses through earnings until its ROE is reduced to 10% before modifying rates. This equates to $270,512,000 that FPL should be required to absorb through earnings.

FRF: Yes. Consistent with the Commission's mandate to ensure fair, just, and reasonable rates and express recognition that storm surcharge proposals should be considered in relation to existing base rates, the 2002 Stipulation requires that FPL defray storm-related costs from earnings to the point that its ROE has fallen to 10%. Any recovery by FPL via surcharges should be reduced by approximately $147 million after-tax ($235 million pre-tax) for 2004 and a determinable, likely-similar amount for 2005.

Staff Analysis:

Background

By Order No. PSC-02-0501-AS-EI, issued April 11, 2002, in Docket No. 001148-EI, In re: Review of the retail rates of Florida Power & Light Company, the Commission approved a Stipulation and Settlement ("Stipulation") that resolved its review of FPL's rates in that docket. The Order and Stipulation are attached hereto for reference as Attachment B. The term of the Stipulation was defined as April 15, 2002, through December 31, 2005.[15]

The Stipulation provided that FPL would reduce its base rates by an annual amount of $250 million.[16] Further, the Stipulation established a "Revenue Sharing Incentive Plan," a mechanism by which FPL would share revenues above specified thresholds with its customers through annual refunds.[17] The Stipulation provided that FPL would no longer have an authorized return on equity ("ROE") range for the purpose of addressing earnings levels, and indicated that the revenue sharing mechanism would be the appropriate and exclusive mechanism to address earnings levels.[18]

Under paragraph 5 of the Stipulation, FPL agreed that it would not petition for an increase in its base rates and charges to take effect before the end of the Stipulation, except as provided for in paragraph 8. Paragraph 8 provided that FPL could petition to amend its base rates if its retail base rate earnings fell below a 10% ROE during the term of the Stipulation. Paragraph 13 of the Stipulation related to FPL's Storm Reserve and recovery of storm-related costs:

> FPL will withdraw its request for an increase in the annual accrual to the Company's Storm reserve. In the event that there are insufficient funds in the Storm reserve and through insurance, FPL may petition the FPSC for recovery of prudently incurred costs not recovered from those sources. The fact that insufficient funds have been accumulated in the Storm reserve to cover costs associated with a storm event or events shall not be evidence of imprudence of the basis of a disallowance. Parties to this Stipulation and Settlement are not precluded from participating in such a proceeding.

Arguments of the Parties

At issue is whether, under the terms of the Stipulation, FPL must absorb prudently incurred storm-related expenses through earnings until its ROE is reduced to 10% prior to seeking recovery of such expenses through rates. In other words, do paragraphs 5 and 8 of the Stipulation, which limit FPL's ability to petition for a base rate increase, apply equally to limit FPL's ability to petition for recovery of prudently incurred storm restoration costs in excess of its storm reserve and insurance coverage? FPL contends that its request for cost recovery in this

[15] Stipulation, ¶1.
[16] Stipulation, ¶2.
[17] Stipulation, ¶6-7.
[18] Stipulation, ¶3.

docket is consistent with and expressly contemplated by the Stipulation. Each of the Intervenors contends that FPL must absorb its storm-related expenses through earnings until its ROE is reduced to 10% and may only seek recovery of amounts that would cause its ROE to fall below 10%.

FPL contends that the position of OPC and the other Intervenors ignores the plain language of the Stipulation. Citing those portions of the Stipulation noted above, FPL asserts that in exchange for its agreement to reduce base rates, share revenues, and withdraw its request for increased accruals to its storm reserve, OPC, FIPUG, FRF, the Twomeys, and other parties to the Stipulation agreed that FPL would no longer have an authorized ROE range for the purpose of addressing earnings levels and that the revenue mechanism described in the Stipulation would be the exclusive mechanism to address earnings levels. Referring to paragraph 13 of the Stipulation, FPL points out that the parties specifically agreed that FPL would have the opportunity to petition the Commission for recovery of prudently incurred storm costs in excess of the amount in the storm reserve and amounts paid through insurance.

FPL argues that the Intervenors' position would render paragraph 13 meaningless. FPL notes that neither the 10% threshold in paragraph 8 nor paragraph 13 refer to one another in the Stipulation. FPL asserts that in the absence of paragraph 13, it would have the same rights that the Intervenors say it has even with the inclusion of paragraph 13 – to petition for relief in the event that its Storm Reserve balance becomes negative and its ROE falls below 10%. Thus, FPL asserts, if the specific language in paragraph 13 is to be given any meaning, it must be capable of applying even if the 10% threshold of paragraph 8 is not met. FPL contends that a contrary interpretation would violate well-established principles of contract law that require courts (1) to read provisions of a contract so as to give effect to all portions of the contract and (2) to avoid an interpretation that would treat part of an agreement as surplusage if any meaning reasonable and consistent with other parts can be given to it.

FPL further contends that the Intervenors' interpretation of the Stipulation is contrary to what the parties intended, as evidenced by the circumstances surrounding the negotiation of the Stipulation. FPL relies largely on the testimony of its witness Moray P. Dewhurst, who testified that he was fully aware of, and approved, the exchange of concessions by which the Stipulation was reached. Citing witness Dewhurst's testimony, FPL states that in exchange for its agreement to reduce base rates, share revenues, and withdraw its request for increased accruals to its Storm Reserve, FPL obtained protections in the form of three conditions: (1) no longer having an authorized ROE range for the purpose of addressing earnings levels; (2) the right to petition for rate relief due to earnings falling below 10%; and (3) the right to seek recovery of prudently incurred excess storm costs during the term of the Stipulation. FPL states that the third condition was added late in the negotiations as part of the final quid pro quo that allowed an agreement to be reached. FPL states that the condition was added because FPL was not willing to accept the specific risk of excess storm restoration costs while under a fixed base rate agreement, even under a draft agreement that already contained a general mechanism for relief if FPL's ROE dropped below 10%. FPL also relies on discussions concerning the Stipulation at the Commission's March 22, 2002, Special Agenda Conference, during which FPL's then-president Paul Evanson indicated that paragraph 13 did not change FPL's right to seek recovery of storm

costs as that right existed prior to the Stipulation. FPL notes that Public Counsel did not question or attempt to clarify Mr. Evanson's statement when given the opportunity.

OPC contends that application of the principles of contract construction leads to the conclusion that the 10% ROE threshold in paragraph 8 applies to FPL's petition in this docket. OPC argues that paragraphs 8 and 13 must be harmonized in a way that gives effect to both and asserts that the way to do so is to subject any petition filed under paragraph 13 to the requirements of paragraph 8. OPC further argues that FPL is attempting to negate the provisions of paragraph 8 even though those provisions are, by their plain terms, applicable without limitation. OPC notes that paragraphs 8 and 13 do not refer to each other and asserts that the parties could have easily included language in either paragraph to make clear that the 10% ROE threshold was not intended to apply to petitions under paragraph 13, if that was the parties' intent. OPC argues that because the stipulation doesn't say that, the Commission must give effect to both provisions by making FPL's petition subject to the 10% ROE threshold.

In response to FPL's argument that OPC's interpretation of the contract would render paragraph 13 meaningless, OPC contends that the principle focus of that paragraph was the recognition of FPL's withdrawal of its proposal to increase the annual accrual to the storm reserve and the assurance that any negative balance resulting from continued use of the lower accrual would not form the basis for a finding of imprudence. In response to FPL's argument that paragraph 13 was added to offset a base rate reduction of $250 million that FPL could not otherwise have afforded, OPC points out that Mr. Dewhurst acknowledged on cross-examination that the intervenors in FPL's last rate case were advocating for base rate reductions of $500 million or more. Thus, OPC asserts, the $250 million reduction in the Stipulation eliminated FPL's exposure to a larger reduction. OPC further states that the Stipulation provided FPL the discretion to reduce depreciation expense by $125 million per year and that this reduction in depreciation expense served to offset the impact of the base rate reduction on FPL's earnings. OPC contends that this ability to cushion one-half of the $250 million base rate reduction through a modification to depreciation expense belies the notion that the $30 million additional storm accrual sought by FPL was the item that enabled FPL to agree to the terms of the Stipulation. OPC also disputes FPL's argument that the comments of Mr. Evanson at the March 22, 2002, Special Agenda Conference provide proof that the Stipulation was intended to provide FPL with the ability to collect storm-related costs without limitation.

Like OPC, FIPUG argues that reading paragraph 13 in the context of the entire Stipulation, including paragraph 8, compels the conclusion that FPL must absorb its 2004 storm-related costs until its ROE has fallen to 10%. By doing so, FIPUG asserts, FPL will be permitted to recover such costs reflected in the negative balance of the storm reserve while earning a generous or conservatively high return in today's market. FIPUG contends that on top of that, FPL is able to collect taxes from its customers that it doesn't have to pay by virtue of consolidating its return with its parent holding company.

FRF adopts the arguments presented by OPC and FIPUG on this issue, and the Twomeys and AARP adopt OPC's position on the issue.

Staff Analysis

The language used in a contract is the best possible evidence of intent and meaning.[19] In interpreting a contract, it is necessary to read its provisions harmoniously in order to give effect to all portions of the contract without negating some of its provisions.[20] Further, no part of an agreement should be treated as surplusage if any meaning reasonable and consistent with other parts can be given to it.[21]

Based on these principles, staff believes the Stipulation should be interpreted such that a petition filed under paragraph 13 is not subject to the 10% ROE threshold in paragraph 8. To interpret the Stipulation otherwise would essentially negate the effect of paragraph 13 and inappropriately treat it as surplusage. Had paragraph 13 not been included in the Stipulation, FPL would have the same rights that the Intervenors say FPL has even with the inclusion of paragraph 13 – the opportunity to petition for recovery of storm-related costs in the event that its storm reserve balance becomes negative and its ROE falls below 10%. Thus, under the Intervenors' interpretation, the effect of paragraph 13 is negated.

OPC attempts to counter this argument by asserting that the focus of paragraph 13 is merely the recognition of FPL's withdrawal of its proposal to increase the annual accrual to the storm reserve and the assurance that any negative balance resulting from continued use of the lower accrual would not form the basis for a finding of imprudence. Paragraph 13 certainly covers these two points, but it also covers a third point quite explicitly: "In the event that there are insufficient funds in the storm reserve and through insurance, FPL may petition for recovery of prudently incurred costs not recovered from those sources." It is this provision that would inappropriately be treated as surplusage under the Intervenors' interpretation. As FPL asserts, if this provision of paragraph 13 is to be given any meaning, it must be capable of applying even if the 10% threshold of paragraph 8 is not met.[22]

Further, the discussion at the March 22, 2002, Special Agenda Conference at which the Commission addressed and approved the Stipulation offers further indication of the parties' intent and the Commission's understanding of what the Stipulation meant when they approved it. During that Special Agenda Conference, Paul Evanson, then President of FPL, stated in response to a question from the Commission that paragraph 13 did not create a right to recovery that did not previously exist and did not change the existing right to seek recovery for storm-related costs. Following that exchange, the Public Counsel, when asked whether anything he had heard during discussion of the Stipulation would change his opinion about whether the Stipulation was

[19] See, e.g., Bill Heard Chevrolet v. Wilson, 877 So. 2d 15 (Fla. 5th DCA 2004), reh. den. July 12, 2004.
[20] See, e.g., City of Homestead v. Johnson, 760 So. 2d 80, 84 (Fla. 2000); Paladyne Corporation v. Weindruch, 867 So. 2d 630 (Fla. 5th DCA 2004).
[21] See, e.g., Aucilla Area Solid Waste v. Madison County, 890 So. 2d 415, 416-17 (Fla. 1st DCA 2004); Peoples Gas System v. City Gas Co., 147 So. 2d 334, 336 (Fla. 3rd DCA 1962).
[22] To support their positions, both FPL and OPC emphasize that paragraphs 8 and 13 do not reference each other. FPL argues that this fact suggests that the parties did not intend to tie paragraph 13 petitions to the 10% ROE threshold in paragraph 8. OPC argues the converse: if the parties had intended to remove paragraph 13 petitions from the conditions of paragraph 8, they could have easily done so but did not. Both arguments invite speculation as to the parties' intent, and one is no more persuasive than the other.

a good deal, he replied in the negative. (FPL BR, 30-31) Notably, the existing right to seek recovery of storm-related costs did not require (or preclude) an analysis of FPL's earnings.[23]

In conclusion, to give effect to all of the provisions of the Stipulation without negating the effect of paragraph 13, staff recommends that the Stipulation be interpreted such that a petition filed under paragraph 13 is not subject to the 10% ROE threshold in paragraph 8.

[23] The "existing right to recovery" discussed herein refers to the rights afforded FPL by Order No. PSC-93- 0918-FOF-EI, issued June 17, 1993, which established the use of FPL's Storm Reserve as a self-insurance mechanism for storm restoration costs, and subsequent orders further defining that mechanism. In Order No. PSC-93-0918-FOF-EI, the Commission stated that FPL could, in the event of extraordinary storm-related costs in excess of its Storm Reserve, petition for relief which could include, among other things, recovery of such costs. In that Order, the Commission rejected a proposal by FPL that would have permitted dollar-for-dollar recovery of storm restoration costs through a cost recovery clause mechanism on the grounds that such a mechanism did not take earnings levels into account and placed the entire risk of loss of FPL's ratepayers. However, the Commission did not go so far as to require that earnings be reviewed in conjunction with a petition for recovery of extraordinary storm-related costs. Nor did the Commission preclude such an earnings review.

Issue 20: In the event that the Commission determines the stipulation approved in Order No. PSC-02-0501-AS-EI does not affect the amount of costs that FPL can recover from ratepayers, should the responsibility for those costs be apportioned between FPL and retail ratepayers? If so, how should the costs be apportioned?

Recommendation: No. Staff recommends that FPL be allowed to recover all reasonable and prudently incurred storm damage costs identified and approved by the Commission. (Maurey, Slemkewicz)

Position of the Parties

FPL: No. The recovery from customers of all reasonable and prudent costs associated with storm restoration is central to the cost-of-service approach to regulation followed in Florida. Storm restoration costs are a cost of providing electric service in Florida and, as such, are properly recoverable from customers. There should be no apportionment of costs between the Company and its customers. Customers are the direct beneficiaries of the Company's restoration efforts.

OPC: Yes. Investors are paid to take risks. It would be unfair to compensate investors for the risks they take, then insulate them from those risks by placing 100% of the 2004 storm costs on customers.

FIPUG: Yes. FPL should be limited to recovering only such costs that would reduce its after-tax return on equity for 2004 to 10%. The remainder could be recovered through a surcharge with interest. Such an apportionment would fairly allocate the costs to ensure that FPL earns a fair rate of return while absorbing the costs of the hurricanes that FPL incurred as a normal business operating risk in Florida.

AARP: Yes. Investors are paid to take risks and should pay a portion of the storm costs. An equity return of 10% will allow FPL to earn a reasonable rate of return, so the Commission should identify the 2004 earnings above 10% ROE as the amount of costs associated with the negative balance in the storm reserve that FPL should recover by the application of corporate earnings to reduce the negative balance rather than a surcharge on customers' bills.

TWOMEYS: Yes. Investors are paid to take risks and should pay a portion of the storm costs. An equity return of 10% will allow FPL to earn a reasonable rate of return, so the Commission should identify the 2004 earnings above 10% ROE as the amount of costs associated with the negative balance in the storm reserve that FPL should recover by the application of corporate earnings to reduce the negative balance rather than a surcharge on customers' bills.

FRF: Yes. Consistent with the Commission's overriding mandate to ensure that the totality of FPL's rates are fair, just, and reasonable, the Commission should apportion cost responsibility by limiting FPL's storm cost recovery to only the amount of such costs that would remain after disallowing double-counted and overstated costs and after applying excess FPL earnings to reduce the storm reserve to the point that FPL's after-tax return on equity for 2004 and 2005 is 10%.

Staff Analysis: The Company has proposed that it be allowed to recover the deficiency in its storm reserve. (TR 81, 92, 94) The intervenors recommend that the Commission first require FPL to expense that portion of storm damage restoration costs necessary to take the Company's 2004 earned return on equity (ROE) to 10% before allowing FPL to recover the remaining balance of reasonable and prudently incurred storm-related costs. (TR 261, 387) Based on FPL's December 2004 Earnings Surveillance Report, the Company would have to record approximately $243.4 million in additional expenses to reach an ROE of 10.0%. (EXH 43)

As discussed in Issue 19, staff believes the Stipulation and Settlement (Stipulation) approved in Order No. PSC-02-0501-AS-EI, issued April 11, 2002, in Docket No. 001148-EI, does not affect the amount or timing of the storm-related costs that FPL can collect from its ratepayers. The Commission expressly stated in Order No. PSC-93-0918-FOF-EI, issued June 17, 1993, in Docket No. 930405-EI, that it is free to consider a variety of options in the event a company petitions for recovery of prudently incurred costs in excess of its storm reserve "depending on what the circumstances are at the time." (TR 802-804)

The intervenors argue that if the Stipulation does not apply in this case to limit FPL's recovery, the Commission should nevertheless apply by analogy some of the principles underlying that Stipulation. In particular, the intervenors contend that FPL should be allowed to recover storm damage restoration costs only to the extent that such costs, if expensed in 2004, would reduce the Company's earnings below a 10% ROE. (TR 261, 387) All intervenors agree that the total amount of storm damage restoration costs incurred as a result of the 2004 hurricane season, if expensed in 2004, would take FPL's earned ROE below 10%, such that partial recovery of those costs should be permitted. (TR 261, FIPUG BR 14, FRF BR 28, TWOMEYS/AARP BR 6)

Staff believes that the 10% ROE threshold should not be applied in the manner advocated by the intervenors. Paragraph 13 of the Stipulation specifically states that FPL would have the opportunity to petition the Commission for recovery of prudently incurred storm costs in excess of the amount in the storm reserve and amounts paid through insurance.[24] In addition, paragraph 3 states, "Effective on the Implementation Date, FPL will no longer have an authorized Return on Equity (ROE) range for the purpose of addressing earnings levels, and the revenue sharing mechanism herein described will be the appropriate and exclusive mechanism to address earnings levels."[25] Finally, while paragraph 8 specifies that FPL may petition for a base rate increase only in the event its base rate earnings fall below a 10% ROE, the Stipulation is silent with respect to what return level the Company may be brought back to as a result of its requested rate relief.[26] For these reasons, staff believes the Company is within its right to petition for recovery of all reasonable and prudently incurred storm-related costs to maintain the return it was otherwise entitled to earn. (TR 589-590, 695-700)

Staff is not convinced that any sharing is appropriate under the circumstances of this case. Consequently, staff recommends that FPL be permitted to recover from its ratepayers the

24 Stipulation, 13.
25 Stipulation, 3.
26 Stipulation, 8.

full amount of the reasonable and prudently incurred storm damage restoration costs approved by the Commission in Issue 21, without regard to the effect of that recovery on FPL's earned ROE. (TR 699-702; FPL BR 38-41)

However, the intervenors contend that making the ratepayers responsible for FPL's recovery of all reasonable and prudently incurred storm damage restoration costs insulates its investors from this risk. (TR 263-265, 271; OPC BR 3-4) The Commission has recognized that cost recovery mechanisms, such as the storm cost recovery surcharge proposed by the Company in this docket, have reduced investor risk:

> Each time we approve a clause for the recovery of utility expenses or capital costs, the overall volatility of the utility's earnings before interest and taxes (EBIT) is reduced. This has the effect of reducing business risk. This reduced business risk should then result in a lower average cost of capital (required rate of return) over the long run. While it can be argued that currently authorized ROEs may not reflect the reduced risk resulting from the guaranteed recovery of prudently incurred environmental costs, ROEs set prospectively should reflect this reduced risk.

Order No. PSC-94-0044-FOF-EI, issued January 12, 1994, in Docket No. 930613-EI, In Re: Petition to Establish an Environmental Cost Recovery Clause Pursuant to Section 366.0825, Florida Statutes, by Gulf Power Company, page 14.

FPL witness Davis testified that the Company's petition specifically seeks recovery of storm damage restoration costs through a "Storm Restoration Surcharge." (TR 85) FPL witness Dewhurst agreed that the Company's request in the instant docket is a "similar or even identical type of recovery mechanism" as the clause mechanism proposed by the Company in Docket No. 930405-EI but rejected by the Commission in Order No. PSC-93-0918-FOF-EI as untimely. (TR 806-807) Staff agrees with witness Dewhurst that, whether the recovery mechanism is a cost recovery clause or a surcharge, the costs are ultimately borne by the ratepayers.

To the extent the Company's request for storm cost recovery is approved, this treatment sends a signal to investors and the market that even in the face of the extensive damage wrought by the "catastrophic and unprecedented" hurricane season of 2004, the Commission continues to be supportive of the financial integrity of FPL and, by extension, the long-run best interests of its ratepayers. (TR 81, 260, 388, 591, 608, 611)

Consistent with the Commission's finding in Order No. PSC-94-0044-FOF-EI and the testimony in the record, to the extent that all prudent and reasonable costs associated with storm damage restoration are borne by the ratepayers irrespective of the Company's earnings, investors are exposed to less risk on a going-forward basis. The fact that ratepayers, not shareholders, bear the risk of storm damage cost recovery should be taken into account in the determination of the Company's investor-required ROE in its next base rate proceeding.

Issue 21: What is the appropriate amount of storm-related costs to be recovered from the customers?

Recommendation: The appropriate amount of storm-related costs to be recovered from the retail customers through a surcharge is $441,990,525 plus interest and revenue taxes. In addition, FPL's depreciation reserve surplus should not be used to offset any of the $441,990,525. (Slemkewicz)

TOTAL COSTS TO BE RECOVERED FROM THE RETAIL CUSTOMERS	
Amount Requested	$533,000,000
Staff Recommended	$441,990,525
Difference	($91,009,475)

If the Commission approves the alternate staff recommendation on Issue 15, staff's recommended surcharge amount would be $408,336,846, plus interest and revenue taxes.

Position of the Parties

FPL: $533 million (jurisdictional) plus interest on the unrecovered balance. The Commission should reject OPC's proposal to use a theoretical depreciation reserve surplus to offset the deficit balance. The OPC proposal violates FPSC and FERC policy and orders, GAPP and SEC guidance, and would cost customers substantially more than FPL's proposed surcharge. The OPC proposal also would shift cost responsibility from wholesale to retail customers. FPL has properly addressed the theoretical depreciation reserve surplus by reducing depreciation expense in base rates.

OPC: $113,000,000. The Commission should consider the availability of excess depreciation reserves to obviate some or all of the need to collect this amount from customers through a surcharge.

FIPUG: FPL should be limited to recovering only such costs that would reduce its after-tax return on equity for 2004 to 10%. The remainder could be recovered through a surcharge with interest. Such an apportionment would fairly allocate the costs to ensure that FPL earns a fair rate of return while absorbing the costs of the hurricanes that FPL incurred as a normal business operating risk in Florida.

AARP: No more than $128,000,000. The Commission should consider the availability of excess depreciation reserves to obviate some or all of the need to collect this amount from customers through a surcharge.

TWOMEYS: No more than $128,000,000. The Commission should consider the availability of excess depreciation reserves to obviate some or all of the need to collect this amount from customers through a surcharge.

FRF: The amount appropriately recoverable from FPL's customers is defined by FPL's claim, $890 million, less $99.66 million to $107.66 million in double-counted or overstated costs, less $235 million pre-tax for 2004, less FPL's earnings constituting an after-tax ROE greater than 10% for 2005. For example, if FPL's 2005 earnings exceeded those necessary to provide an after-tax 10% ROE by $150 million ($240 million pre-tax), the amount recoverable through surcharges would be approximately $310 million to $315 million.

Staff Analysis: Based on the adjusted total net 2004 storm damage costs determined in Issue 16, staff recommends that $444,015,346, plus interest and revenue taxes, is the appropriate amount of storm-related costs to be recovered from the retail customers. The following table shows staff's calculation:

Total Net 2004 Storm Damage Costs (Jurisdictional)	$794,309,025
Less: 12/31/04 Storm Damage Reserve Balance (Jurisdictional) ($354,000,000 x .99525)	(352,318,500)
Unrecovered 2004 Storm Damage Costs To Be Collected From Retail Customers Before Interest and Revenue Taxes	$441,990,525

If the Commission approves the alternate staff recommendation on Issue 15, thereby not including lost revenues, staff's recommended surcharge would be $408,336,846, plus interest and revenue taxes.

THEORECTICAL DEPRECIATION RESERVE SURPLUS

Issue 21 was designated as the appropriate issue for the discussion of OPC's proposal concerning the netting of any unrecovered storm damage costs against the theoretical depreciation reserve surplus identified in FPL's 2005 depreciation study that was filed March 17, 2005, in Docket No. 050188-EI, In re: 2005 comprehensive depreciation study by Florida Power & Light Company. The depreciation study docket was subsequently consolidated into FPL's rate case in Docket No. 050045-EI, In re: Petition for rate increase by Florida Power & Light Company.

Based on his review of FPL's depreciation study, Mr. Majoros determined that FPL had, at a minimum, a $1.24 billion book depreciation reserve excess that had already been charged to and collected from the ratepayers. He stated that the book depreciation reserve excess represented amounts that had been collected that are in excess of the current requirements for depreciation. (TR 415) Mr. Majoros contends that FPL has the ability to reduce the negative balance in the storm damage reserve by applying some of the depreciation reserve excess to it. He further recommends that the Commission consider this option to reduce the unrecovered amount of storm damage restoration costs that FPL is seeking to recover. (TR 417)

FPL witness Davis filed testimony to rebut Mr. Majoros' suggestion that the depreciation reserve surplus be used to offset the unrecovered amount of storm damage restoration costs. Mr.

Davis stated that the depreciation reserve surplus was mainly attributable to the newly approved Nuclear Regulatory Commission (NRC) license extensions for FPL's nuclear generating facilities. (TR 130) Prior to the NRC license extensions, the depreciation expense had been calculated over the original license periods of the nuclear generating facilities. (TR 131) The extension of the useful lives of the nuclear generating facilities, however, can result in the creation of an instant surplus. This can best be illustrated by the following example:

	Asset Cost	Useful Life	Annual Depreciation Expense	Accumulated Depreciation after 18 Years
Original Life	$1,000,000	20 Years	$50,000	$900,000
Extended Life	$1,000,000	25 Years	$40,000	$720,000
Theoretical Surplus	---	---	---	$180,000

In this example, the five year life extension at the beginning of the 19th year that the asset has been in service creates a depreciation reserve surplus of $180,000. This represents the difference between the actual accumulated depreciation of $900,000 that was booked based on the original 20-year life and the $720,000 that would have been accumulated if the asset had been depreciated over the extended life of 25 years originally. One methodology for eliminating the surplus is to lower the extended life depreciation expense over the remaining life of the asset. In this example, the $40,000 extended life annual depreciation expense would be decreased by $25,714 ($180,000/7 years) to $14,286 over the remaining 7 year life of the asset. After 25 years, the accumulated depreciation would be equal to the $1,000,000 asset cost. Other methods for disposing of reserve surpluses are reserve transfers within the same function or to amortize the reserve surplus over a time period different than the remaining life of the asset.

As previously mentioned, Mr. Majoros has suggested that part of the reserve surplus could be used to reduce or eliminate the unrecovered amount of the storm damage restoration costs. Mr. Davis stated that the practical result of Mr. Majoros' proposal would be an increase in rate base that would be equal to the decrease in the unrecovered storm damage restoration costs. (TR 134) Because the majority of the depreciation reserve surplus is attributable to the nuclear function, the use of the reserve surplus would increase the net amount of the nuclear assets in rate base. Although this would eliminate the need for a temporary storm damage recovery surcharge, base rates would be higher than they would otherwise be due to the increased rate base and the increased depreciation expense. This would, in effect, spread the recovery of the storm reserve deficit over the 20 year extended useful life of the nuclear assets. (TR 139)

Mr. Davis further stated that theoretical depreciation reserves can fluctuate between surpluses and deficits over time depending on various circumstances. He cited this as one reason for the Commission requirement that depreciation rates be reviewed at least every four years. (TR132) At the present time, the Commission's review of FPL's 2005 depreciation study has been consolidated into FPL's current request for an increase in rates. It is staff's opinion that the appropriate venue for considering the depreciation reserve surplus is in the depreciation study. Because it is being concurrently considered with the rate case, the decisions made in the depreciation study can be immediately incorporated into the rate case. Therefore, staff

recommends that the depreciation reserve surplus not be used to reduce the amount of unrecovered storm damage restoration costs.

Issue 22: If recovery is allowed, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery?

Recommendation: The appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery is to record the costs as a regulatory asset in a subaccount of Account 182.1, Extraordinary Property Losses. (Slemkewicz)

Position of the Parties

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.

OPC: The negative balance should be maintained in a separate sub account, so as to segregate it from the positive balance resulting from future accruals.

FIPUG: The storm damage account should be credited each month with the actual amount recovered from ratepayers.

AARP: The negative balance should be maintained in a separate sub account, so as to segregate it from the positive balance resulting from future accruals.

TWOMEYS: The negative balance should be maintained in a separate sub account, so as to segregate it from the positive balance resulting from future accruals.

FRF: The storm damage account should be credited each month with the actual costs recovered from ratepayers.

Staff Analysis: Although not specifically addressed by the witnesses at the hearing or in the parties' briefs, the purpose of this issue was to determine the appropriate account in which to record the approved deferred storm-related costs during the period that they are being amortized. Once an amount is approved for recovery and amortization, it meets the definition of a regulatory asset. In this instance, the appropriate account is Account 182.1, Extraordinary Property Losses. This account was specifically created to include extraordinary losses, such as unforeseen damages to property, which are not covered by insurance or other provisions. This would include the Commission-determined amount of the storm-related costs, approved for future recovery, that exceed the balance in the storm reserve. In order to assist in the tracking and review of the amounts included in this account and their subsequent amortization, a separate sub account of Account 182.1 should be established to record these transactions.

Based on the foregoing, staff recommends that the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery is to record the costs as a regulatory asset in a sub account of Account 182.1, Extraordinary Property Losses.

Staff also notes that this would be the "normal" accounting treatment for Commission-approved deferral and future recovery of extraordinary property losses.

Issue 23: Should FPL be authorized to accrue and collect interest on the amount of storm-related costs permitted to be recovered from customers? If so, how should it be calculated?

Recommendation: Staff recommends that FPL be allowed to charge interest at the applicable 30-day commercial paper rate on the unamortized balance of storm damage restoration costs permitted to be recovered from ratepayers. In addition, staff recommends an adjustment be made in the calculation of interest to recognize the storm-related deferred taxes not included in the Company's upcoming rate case. This adjustment reduces the interest carrying charge on the unamortized balance of storm-related costs by approximately $5.1 million. (Maurey)

Position of the Parties

FPL: Yes. Interest should be calculated monthly using the average commercial paper rate applied to the average unamortized balance for the month. In addition, if the tax benefit of the deduction resulting from storm expenses is used to reduce the balance on which carrying costs are applied, the amount associated with the tax benefit would need to be financed with other sources of capital. These funds would have a cost possibly as high as FPL's overall cost of capital.

OPC: To the extent that any amounts are approved for recovery from FPL's customers, FPL should be permitted to apply an interest factor, calculated as follows: Each month FPL should apply the 30 day commercial paper rate to the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.575% taxes.

FIPUG: Agree with OPC: To the extent that any amounts are approved for recovery from FPL's customers, FPL should be permitted to apply an interest factor, calculated as follows: Each month FPL should apply to 30 day commercial paper rate to the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.57% taxes.

AARP: To the extent that any amounts are approved for recovery from FPL's customers, FPL should be permitted to apply an interest factor, calculated as follows: Each month FPL should apply the 30 day commercial paper rate to the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.575% for taxes.

TWOMEYS: To the extent that any amounts are approved for recovery from FPL's customers, FPL should be permitted to apply an interest factor, calculated as follows: Each month FPL should apply the 30 day commercial paper rate to the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.575% for taxes.

FRF: Yes, to the extent that any amounts are approved for recovery from FPL's customers. Interest should be calculated as follows: each month, FPL should calculate interest at the commercial paper rate on the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.575% taxes.

Staff Analysis: All parties agree that, to the extent recovery of storm damage restoration costs is granted through a storm cost recovery surcharge, FPL should be allowed to charge interest at the applicable 30-day commercial paper rate. (TR 86, OPC BR 45, FIPUG BR 15, FRF BR 29, TWOMEYS/AARP BR 6) The aspect of this issue that must still be decided is the appropriate balance on which the commercial paper rate should be applied.

Consistent with Rule 25-6.0143(4)(b), Florida Administrative Code, FPL booked storm damage restoration costs to its storm reserve for regulatory purposes. (TR 394) For tax purposes, however, FPL expensed the storm damage restoration expenses in 2004. (TR 219-220) This treatment resulted in the Company booking additional accumulated deferred taxes of approximately $206.6 million. (EXH 39) While this is a temporary timing difference that will be reversed as the storm damage surcharge is collected, in the meantime the deferred taxes are a source of cost-free capital to the Company. (TR 221)

In its petition, FPL dealt with the storm-related deferred taxes by including a certain amount in its capital structure. (TR 220-221) The intervenors, however, contend that FPL should be required to recognize the storm-related deferred taxes in the calculation of the interest carrying charge on the unamortized balance of any storm-related costs the Company is permitted to recover from ratepayers. Specifically, the intervenors have recommended that the Company only be allowed to charge interest on the net-of-tax balance of the storm damage account. (OPC BR 45, FIPUG BR 15, FRF BR 29, TWOMEYS/AARP BR 6)

All things being equal, including the storm-related deferred taxes in the capital structure as zero-cost capital would result in a greater benefit to ratepayers than using the deferred taxes as an offset to the unamortized storm damage balance in the interest calculation. However, in the instant case, all things are not equal.

The ratepayers only benefit from the inclusion of storm-related deferred taxes in the capital structure if rates are reset when the deferred taxes are present. Because the Company, in its pending base rate case, is using 13-month average balances in a December 31, 2006, projected test year, by operation of math roughly half of the storm-related deferred taxes will have turned around and therefore will not be recognized in the rate case. (TR 223) To capture the value of the storm-related deferred taxes for the benefit of the ratepayers, staff recommends a compromise approach.

Because the Company's petition is predicated on including a certain portion of storm-related deferred taxes in the capital structure, staff recommends the Commission leave the corrected 13-month average balance intact and afford it the treatment it would ordinarily receive in the rate case. (EXH 39) The amount of storm-related deferred taxes included in the capital structure for purposes of the rate case must be adjusted because the amount included in FPL's MFR filing was based on the Company's initial assessment of a $354 million storm reserve deficiency, not the $533 million deficiency it is now requesting to recover in its amended petition. (EXH 39) For the remaining portion of storm-related deferred taxes that, by operation of math, are not included in the capital structure for purposes of the rate case, staff recommends the Commission use the information from Exhibit 39 provided by FPL witness Davis to determine the net-of-tax balance for purposes of calculating the interest carrying charge. (TR

223, EXH 39) Specifically, staff recommends interest be calculated on the net-of-tax balance for the period April 2005 through June 2006. Interest will be calculated on the remaining storm recovery balance, without any adjustment for deferred taxes, for the period July 2006 through March 2008. This adjustment reduces the interest carrying charge on the unamortized balance of storm-related costs by approximately $5.1 million. In this manner, staff believes the Commission can capture the value of that portion of the storm-related deferred taxes for the benefit of FPL's ratepayers that would have otherwise gone unrecognized.

Issue 24: WITHDRAWN

Issue 25: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes?

Recommendation: Storm-related costs should be allocated to the rate classes using the revised allocation percentages developed in FPL's response to Staff Interrogatory No. 35, Attachment 1, page 1 of 2. (EXH 2) These percentages reflect an allocation that approximates the way the storm damage costs would have been allocated in a base rate proceeding, i.e., based on the amount of damage in each functional area (e.g., transmission, distribution, etc.).

Each rate class's cost responsibility should be based on its actual kWh sales for 2003, adjusted to reflect the remaining 29-month recovery period to calculate a cents-per-kWh recovery factor. FPL should immediately file tariffs containing revised factors that will become effective beginning with cycle 13 billings for the month of September 2005. The factors should be designed to recover the Commission-approved jurisdictional storm cost recovery amount addressed in Issue 21, plus interest and revenue taxes, less the actual/estimated revenues collected between February 17, 2005, and cycle 12 billings for September 2005.

If the Commission determines that FPL's allocation method is appropriate, FPL should nevertheless file revised factors using FPL's allocation percentages, reflecting the Commission-approved recovery amount as described in the previous paragraph. (Wheeler)

Position of the Parties

FPL: The Storm Recovery Surcharge should be allocated to rate classes based on each rate class's share of gross plant divided by its kWh sales. The resulting calculation of the Storm Recovery Surcharge factors by rate class is reflected in Document No. RM-1 attached to the Direct Testimony of Rosemary Morley filed in this Docket.

OPC: OPC takes no position as to allocation of the additional base rate revenues generated by an approved surcharge. However, should the Commission decide to utilize FPL's excess depreciation to cover the 2004 storm expenses, rate class allocation is moot.

FIPUG: Agree with Staff.

AARP: As recommended by Commission Staff in the Prehearing Order.

TWOMEYS: As recommended by Commission Staff in the Prehearing Order.

FRF: Agree with the Commission Staff's position as articulated in the Prehearing Order.

Staff Analysis: This issue addresses the manner in which the total costs that are approved for recovery are allocated to the rate classes.

In its petition, FPL's proposed factors were developed by allocating their proposed storm cost recovery costs to the rate classes based on each rate class's share of gross electric plant in service. Each rate class's share of gross plant was developed using actual historical calendar year 2003 load research and kilowatt-hour data. Under cross examination, FPL witness Morley indicated that this method was employed because this was the manner in which the storm reserves were allocated in base rates. (TR 253)

In response to Staff's Request for Production of Documents, No. 11 (EXH 2), FPL provided work papers supporting the development of each rate class's share of gross plant. Based upon this response, approximately 47% of FPL's gross plant is attributable to the production function, 13% to the transmission function, and 40% to the distribution function. (EXH 2)

In Staff Interrogatory No. 17 (EXH 2), staff asked that FPL provide a functional breakdown of the storm damage costs that FPL incurred in the 2004 storms. In its response, FPL indicated that they had not performed a functionalized breakdown by FERC function of their storm damage costs. FPL did, however, provide an estimate that itemized storm costs by "Business Unit" and "General Expense" categories as shown below:

Business Unit	Cost	Cost as a Percentage of Total
Power Systems – Distribution	$668,102,498	75%
Power Systems –Transmission	$27,066,145	3%
Other Business Units	$20,935,628	8%
General	$45,809,820	14%
Total	$890,000,000	100%

According to FPL's response, the "Other Business" category includes power generation, human resources, and information management expenses. The "General" category includes costs associated with staging sites, meals, lodging, and fuel. As shown above, at a minimum, 75% of FPL's total estimated storm damage costs are attributable to its distribution system. By contrast, FPL's method allocates only 40% of total storm costs using the method used for allocating distribution costs.

Staff believes that the Commission-approved storm damage costs should be allocated to the rate classes based on an approximation of the actual amount of storm damage incurred by

functional area, rather than based on the rate class's share of gross electric plant in service. In Staff Interrogatory No. 35 (EXH 2), FPL was asked to develop revised allocation percentages and recovery factors by rate class based on the functional breakdown provided in Interrogatory No. 17. Staff believes that these allocation percentages more closely approximate the manner in which such costs would be allocated in a rate case proceeding and should be used to allocate costs to the rate classes in this proceeding.

Staff agrees that it is appropriate to allocate storm established allowed in a base rate proceeding based on gross plant by rate class, because at the time reserves are set aside, it is not known which functional areas will be impacted by storms. However, in this case, in which a surcharge is being assessed after storm damage has occurred, the allocation of the costs of damage in excess of the storm reserve should take into account damage by functional area, to the extent practicable.

Because these percentages were derived using 2003 load data and kilowatt-hour sales, staff recommends that the revised factors be based on 2003 kilowatt-hour sales, adjusted upward to reflect the remaining 30-month recovery period. Use of 2003 sales will insure consistency in the factors by rate class, and will also increase the likelihood that the storm damage costs are recovered on or before the end of the 36-month recovery period.

FPL should immediately file revised tariffs using the staff-recommended allocation method, to become effective with cycle 13 billings for September 2005. The factors should be designed to recover the Commission-approved jurisdictional storm cost recovery amount, plus interest and revenue taxes, less the actual/estimated revenues collected between February 17, 2005, and cycle 12 billings for September 2005.

If the Commission determines that FPL's allocation method is appropriate, FPL should nevertheless file revised factors using FPL's allocation percentages, reflecting the Commission-approved recovery amount as described in the previous paragraph.

Issue 26: What is the appropriate recovery period?

Recommendation: The appropriate recovery period, which became effective on an interim basis on February 17, 2005, is three years or less. The recovery period should end with cycle 12 billings for February 2008, unless all approved costs are recovered sooner. If the approved costs are fully recovered prior to February 2008, the recovery period should continue until the next cycle 12 billings, so that all customers are assessed the surcharge for the same number of billing cycles. Within 60 days following expiration of the Commission-approved recovery period, FPL should file with the Commission for approval of the final over- or under-recovery of the 2004 storm damage costs, and a proposed method to true up any final over- or under-recovery. (Draper)

Position of the Parties

FPL: The jurisdictional portion of the Storm Reserve Deficit, $533 million, should be recovered over a three-year period, or such shorter period as is necessary to recover the Storm Reserve Deficit.

OPC: The appropriate period is a function of the amount authorized to be recovered and the interest factor, as each has an impact on customers. The Commission should prescribe a period that takes both impacts into account.

FIPUG: No more than three years, depending on the amount FPL is authorized to collect.

AARP: The appropriate period is a function of the amount authorized to be recovered and the interest factor, as each has an impact on customers. The Commission should prescribe a period that takes both impacts into account.

TWOMEYS: The appropriate period is a function of the amount authorized to be recovered and the interest factor, as each has an impact on customers. The Commission should prescribe a period that takes both impacts into account.

FRF: No more than 3 years. If the Commission approves a total amount for cost recovery that can be recovered in 2 years or less at FPL's proposed surcharge rates, then those rates should be adjusted downward to provide for recovery over a 2-year period.

Staff Analysis: This issue addresses the appropriate recovery period and the appropriate disposition of any final over- or under-recovery of the 2004 storm damage costs.

In its initial petition, FPL proposed to recover its storm-related costs through a monthly surcharge to customer bills over a 24-month period. The proposed recovery period was based on FPL's initial estimate of storm-related restoration costs of approximately $710 million, net of insurance proceeds. By Order No. PSC-05-0187-PCO-EI, issued February 17, 2005, in this docket, the Commission approved interim surcharge factors that became effective on February 17, 2005. By Order No. PSC-05-0283-PCO-EI, in this docket, issued on March 16, 2005, the Commission granted FPL leave to amend its original petition to reflect an updated estimate of the storm-related costs.

In its amended petition, FPL updated its estimate of storm-related costs to $890 million, net of insurance proceeds. FPL stated that approximately 93 percent of the $890 million was based on actual costs, and the remaining costs were estimated. FPL further proposed in its amended petition that the storm cost recovery surcharge be applied for an additional 12 months, for a total of 36 months, or for such shorter period as may be sufficient to recover the deficit. FPL contends that the addition of 12 months to the recovery period will enable them to recover the storm deficit in a reasonable period of time without revising the originally proposed surcharge factors.

In response to staff discovery, FPL stated that it proposes to monitor the recoverable balance on a monthly basis, and if the balance reaches zero prior to the end of the 36-month period, FPL will suspend billing the surcharge factor. Since the storm surcharge was initially applied to cycle 13 billings for the month of February 2005, FPL proposes to end the surcharge with its next cycle 12 billings after the balance reaches zero, in order to insure that all customers pay the surcharge for the same number of billing cycles. (EXH 2)

At the conclusion of the recovery period, FPL will compare the amount collected with the final actual 2004 storm restoration costs. Within 60 days following expiration of the recovery period, FPL will file for Commission approval the final over- or under-recovery of the 2004 storm damage costs. (TR 87) FPL witnesses Davis and Morley describe FPL's proposed true-up mechanism for any over- or under-recovery in their direct testimonies. (TR 87, 244)

Over-recovery. An over-recovery can occur if FPL suspends billing the surcharge factors prior to the expiration of the 36-month recovery period. Since FPL has proposed to bill all customers the surcharge for an equal number of billing cycles, an over-recovery could occur if FPL fully recovers its storm deficiency prior to the end of the 36-month period. FPL proposes to return any over-recovery to customers with interest as a one-time refund. (TR 244) Witness Morley states that once the final over-recovery amount has been approved by the Commission, FPL will determine storm recovery true-up factors based on each rate class's kWh sales during the recovery period. Based on these factors, refunds will be distributed to each customer based on their actual kWh sales during the recovery period.

Under-recovery. Since actual sales may differ from the sales forecast used in developing the factors, an under-recovery may occur at the end of the 36-month recovery period. For any under-recovered portion of the storm cost recovery amount, FPL would propose the means by which it would be recovered at that time.

OPC, Twomeys, and AARP contend that the Commission should consider the impact on customers when deciding on the appropriate recovery period. FIPUG and FRF take the position that the recovery period should be no more than three years.

Staff believes that a recovery period of three years or less is reasonable and should be approved. The recovery period became effective on an interim basis on February 17, 2005, which was FPL's billing cycle 13. See, Order No. PSC-05-0187-PCO-EI. The recovery period should end with cycle 12 billing for February 2008, unless all costs are recovered sooner. If the

costs are fully recovered prior to February 2008, the recovery period should continue until the next cycle 12 billings, so that all customers are assessed the surcharge for an equal number of billing cycles. FPL concurs with staff that billing should end with cycle 12. (FPL BR 48)

Staff also recommends that within 60 days after the conclusion of the Commission-approved recovery period, FPL should file with the Commission the final actual 2004 storm damage costs and the total amount collected through the surcharge during the recovery period. FPL's filing should also include a proposed method for truing up any final over- or under-recovery. While staff believes that FPL witness Morley's proposal to refund any over-recovery as a one-time refund appears reasonable, staff recommends that the Commission make a determination of the appropriate final disposition of any over- or under-recovery when the total amount is known.

Issue 27: If the Commission approves a storm cost recovery surcharge, should the approved surcharge factors be adjusted annually to reflect actual sales and revenues?

Recommendation: No. (Draper)

Position of the Parties

FPL: FPL does not believe such an exercise is necessary. The Storm Recovery Surcharge will be subject to true-up based on actual sales and revenues, and any over- or under-recovery will be subject to disposition as ordered by the Commission.

OPC: Yes.

FIPUG: Yes, provided that the total recovery of storm restoration costs through the proposed surcharge is limited to $890 million less capital costs, the storm damage reserve and such adjustments as the Commission approves. FPL agreed to a maximum storm damage cost as a condition to the opportunity to amend its petition and file supplemental testimony.

AARP: Yes.

TWOMEYS: Yes.

FRF: Only if necessary to ensure that the totality of FPL's rates are fair, just, and reasonable.

Staff Analysis: By Order No. PSC-05-0187-PCO-EI, issued February 17, 2005, the Commission approved interim surcharge factors that became effective on February 17, 2005. The factors are contained in FPL's proposed Original Tariff Sheet No. 8.033. FPL witness Morley testified that the same factors should remain in effect for a total of three years or until the storm costs are fully recovered. (TR 251) Witness Morley further contends that intermediate or annual true-ups before the end of the recovery period are not necessary and would not represent the best use of the Commission's time and resources. (TR 250) FPL agrees that kWh sales during the recovery period could differ from the 2003 kWh sales used in developing the surcharge factors. However, since FPL has proposed to discontinue billing the surcharge factors if it fully recovers its storm restoration costs in less than 36 months, there should be no effect on what customers are ultimately charged. (TR 244) Finally, FPL states that there is no testimony in the record supporting an annual adjustment of the surcharge factors (FPL BR 49).

OPC, FIPUG, Twomeys, and AARP believe that if the Commission approves a surcharge, then the surcharge factors should be adjusted annually to reflect actual sales and revenues.

Staff believes that for the sake of simplicity and administrative efficiency, annual revisions to the storm cost recovery factors to reflect actual sales are not necessary. However, as discussed in Issue 25, FPL should revise its interim surcharge factors to reflect the Commission vote on Issues 21 and 25, which address the total amount of storm costs authorized for recovery, and how those costs are allocated to the rate classes.

Issue 28: If the Commission approves a mechanism for the recovery of storm-related costs from the ratepayers, on what date should it become effective?

Recommendation: The interim surcharge factors became effective on February 17, 2005. If the Commission revises the surcharge factors based on its vote in Issue 25, the revised factors should become effective with cycle 13 billings for September 2005. (Draper, Wheeler)

Position of the Parties

FPL: It should be deemed effective the same date as the interim surcharge became effective (Feb. 17, 2005).

OPC: Thirty days after the Commission's vote, to be applied to bills during the following billing cycle.

FIPUG: FPL should be allowed to begin recovering such costs from the final date of the Commission's order in this docket, with recovery beginning on the first billing cycle of the next month.

AARP: Thirty days after the Commission's vote, to be applied to bills during the following billing cycle.

TWOMEYS: Thirty days after the Commission's vote, to be applied to bills during the following billing cycle.

FRF: Any mechanism that the Commission approves for recovery of storm-related costs through retail rates should become effective 30 days following the date of the Commission's vote in this docket. Recovery should then begin with the first billing cycle of the following month.

Staff Analysis: By Order No. PSC-05-0187-PCO-EI, issued February 17, 2005, the Commission approved interim surcharge factors that became effective on February 17, 2005, which was FPL's billing cycle 13. FPL witness Morley testified that these interim factors should remain in effect for a total of three years, or until the storm costs are fully recovered. (TR 251) Thus, the 3-year recovery period became effective on February 17, 2005. If the Commission decides that FPL should continue charging the existing interim surcharge factors for the reminder of the recovery period, then staff agrees with FPL that the only relevant effective date is February 17, 2005.

If the Commission votes to revise FPL's interim surcharge factors based on its vote on Issue 25, the revised factors should become effective with cycle 13 billings for September 2005. This is consistent with past Commission practice that rates become effective 30 days following the date of the Commission vote. To ensure that all customers are assessed the revised surcharge for an equal number of billing cycles, recovery through the revised factors should begin with cycle 13 billings for September 2005.

Issue 29: What is the appropriate disposition of the revenue collected as an interim storm cost recovery surcharge?

Recommendation: If the Commission authorizes FPL to collect a total amount that is less than that collected on an interim basis, the difference should be refunded to customers with interest. If the Commission authorizes FPL to collect a total amount that is more than that collected on an interim basis, the funds collected under the interim provision should be applied to the total overall amount. Revenues collected on an interim basis, less revenue taxes, should be applied to the amount approved for recovery by the Commission. Further, total revenues will be subject to the cumulative true-up at the end of the recovery period. (Romig, Wheeler)

Position of the Parties

FPL: Revenues collected on an interim basis, less revenue taxes, should be applied to the amount approved for recovery by the Commission.

OPC: Thirty days after the Commission's vote, to be applied to bills during the following billing cycle.

FIPUG: The storm damage account should be credited each month with the actual amount recovered from ratepayers.

AARP: If the Commission authorizes FPL to collect an amount that is less than that collected through the provisional measure, the differential should be refunded to customers with interest.

TWOMEYS: If the Commission authorizes FPL to collect an amount that is less than that collected through the provisional measure, the differential should be refunded to customers with interest.

FRF: Such revenues should be applied as a direct credit, including accrued interest at the commercial paper rate, against the total amount that the Commission determines to allow FPL to recover through Storm Surcharges on a going-forward basis. If the amount of revenues collected via the "interim" surcharge exceeds the total amount authorized for recovery by the Commission, the difference should be refunded to customers as soon as practicable.

Staff Analysis: If the Commission authorizes FPL to collect a total amount that is less than that collected through the provisional measure, the differential should be refunded to customers with interest. If the amount collected is less than the overall amount approved by the Commission, the funds collected under the interim provision should be applied to the total overall amount. Revenues collected on an interim basis, less revenue taxes, should be applied to the amount approved for recovery by the Commission. Further, total revenues will be subject to the cumulative true-up at the end of the recovery period. There is no dispute in the record with FPL's position on this issue and it should be adopted.

Issue 30: WITHDRAWN

Issue 31: Should this docket be closed?

Recommendation: Yes. This docket should be closed if no party files a timely appeal of the Commission's final order. At the time of FPL's true-up filing following the recovery period set forth in Issue 26, the Commission may address the true-up in a separate docket. (C. Keating, K. Fleming)

Position of the Parties

FPL: Yes.

OPC: No. The docket should remain open pending verification of actual cost

FIPUG: No, the docket should remain open to enable parties and the Commission to ensure that FPL collects the appropriate amount.

AARP: No. The docket should remain open pending verification of actual costs.

TWOMEYS: No. The docket should remain open pending verification of actual costs.

FRF: No. The docket should remain open to ensure that FPL collects the appropriate amount of costs, as determined by the Commission, including an appropriate credit against claimed 2004 storm costs for 2005 earnings above a 10% ROE (as well as an appropriate credit against 2004 storm costs for 2004 earnings above a 10% ROE).

Staff Analysis: This docket should be closed if no party files a timely appeal of the Commission's final order. At the time of FPL's true-up filing following the recovery period set forth in Issue 26, the Commission may address the true-up in a separate docket.

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Attachment C

FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 041291-EI
SUMMARY OF PARTIES' POSITIONS ON ISSUES WITH $ IMPACT

($Millions)

	FPL	OPC	FIPUG	AARP & TWOMEYS	FRF	STAFF
Total Costs	890.000	890.000	890.000	890.000	890.000	890.000
Issue 4 – Payroll	0.000	(10.900)	xxx①	(10.900)	(10.900)	(10.900)
Issue 5 – Payroll	0.000	(21.100)	(18.301)	(21.100)	(21.100)	(21.100)
Issue 7 – Training	0.000	0.000	0.000	xxx①	xxx①	0.000
Issue 8 – Tree Trim	0.000	(4.222)	(4.222)	(4.222)	(4.222)	(1.000)
Issue 9 – Vehicles	0.000	(5.260)	(5.262)	(5.261)	(5.260)	(5.262)
Issue 10- Call Center	0.000	0.000	0.000	0.000	0.000	0.000
Issue 11- Advertising	0.000	(1.700)	(1.700)	(1.700)	(1.700)	(1.552)
Issue 12 - Uncollectibles	0.000	0.000	0.000	0.000	0.000	0.000
Issue 13 – Capital Items	0.000	(107.700)	(107.700)	(63.000)②	(55.000)②	(91.900)
Issue 14 – M&S Inv.	0.000	(1.500)	xxx①	(1.500)	(1.500)	0.000
Issue 15- Lost Revenue, etc.	xxx③	xxx④	xxx④	xxx④	xxx④	39.814
Issue 16 – Total Storm Costs (System)	890.000	740.000	xxx②	790.600	790.340	798.100
Issue 19/20 – 10% ROE	0.000	(270.512)	xxx①	(270.512)	(235.000)	0.000
Issue 21 – Amt. of Surcharge	533.000	113.000	xxx②	128.000	xxx②	441.991

①No amount provided.
②Total amount of adjustment cannot be determined.
③FPL - $60.2 million if incremental cost approach is used.
④Some of these items could be considered only if incremental cost approach is used.