



Because the expiration of FPL's current T&D insurance on May 31, 1993, FPL requested consideration of its request on an emergency basis. Pursuant to notice, a hearing on FPL's petition was scheduled for May 17, 1993.

## II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 366.093, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Commission Clerk's confidential files.

III. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
D.K. Cavendish	FPL	8
E.L. Hoffman	FPL	1-7 & 9-10
Hugh Larkin, Jr.	OPC	

IV. BASIC POSITIONS

**FLORIDA POWER AND LIGHT COMPANY (FPL):** FPL's proposed self-insurance approach for the cost of repairing and restoring the transmission and distribution (T&D) system in the event of hurricane or storm damage should be approved. This approach consists of contributions to FPL's storm fund, a dedicated line of credit and a storm loss recovery mechanism.

**FLORIDA INDUSTRIAL POWER USERS GROUP (FIPUG):** FIPUG does not oppose an appropriate provision for self-insurance, if that is the most economical way to provide for the cost of repairing damaged transmission and distribution facilities. FIPUG objects to FPL's proposed storm cost recovery mechanism because it seeks to impose dollar-for-dollar recovery of a particular expense on ratepayers, in addition to the base rates they pay. Regulation does not guarantee FPL to be totally risk-free with respect to hurricane damage, even when traditional insurance is used.

**OFFICE OF PUBLIC COUNSEL (OPC):** FPL is understandably concerned about changes in the insurance market since Hurricane Andrew. FPL should make the appropriate management decision necessary for the new insurance environment, but a storm cost recovery mechanism is not justified. FPL should renew contributions to its Storm and Property Insurance Reserve. Commitment costs for lines of credit should not be charged to the reserve. If a hurricane strikes, FPL can petition at that time for appropriate regulatory action. In the meantime, the Commission should direct that significant charges to the reserve be amortized over a five-year period, beginning with the first accounting period after qualifying costs are incurred.

**STAFF:** Staff accepts the concept of self insurance by FPL, but takes no position at this time regarding the specific plan submitted by FPL.

V. ISSUES AND POSITIONS

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the

record and may differ from the preliminary positions.

**ISSUE 1:** Should FPL implement a self-insurance approach for the costs of repairing and restoring the transmission and distribution (T&D) system in the event of hurricane or storm damage?

**FPL:** Yes. FPL's current insurance policy expires on May 31, 1993. Due to the unreasonably high cost and inadequate levels of available T&D insurance and based on our analysis of the options available, we believe our proposal to self insure for losses should be approved and implemented. Our proposal to self insure, which consists of resuming accruals to the Storm and Property Insurance Reserve (Reserve) and obtaining dedicated lines of credit, combined with the establishment of a Storm Loss Recovery Mechanism by the Commission, will provide adequate protection for our customers and assure that our ability to obtain financing at a reasonable cost is maintained in spite of the loss of our previous T&D coverage.

**FIPUG:** FIPUG does not object in principle to an appropriate provision for self-insurance if that is the most economical means of providing appropriately for the cost of repairing and restoring storm damage to the T&D system.

**OPC:** This is a typical business decision to be decided by FPL's management, not the Commission, with the burden on the Company to act in the best interests of its ratepayers. It is not the type of decision that, through pre-approval, should hold the Company harmless for any adverse impact of its decision on rates during its next rate case.

**STAFF:** The concept of self insurance is a reasonable alternative at this time.

**ISSUE 2:** Should such a self-insurance approach consist of a funded reserve and a \$300 million line of credit?

**FPL:** Yes, however, it is essential that the Commission authorize a Storm Loss Recovery Mechanism as well. Our self-insurance approach, which consists of three parts, the Storm Loss Recovery Mechanism, a funded reserve and a \$300 million line of credit, will assure the availability of cash, at a reasonable cost, needed to continue operations after a hurricane and to restore service to customers as quickly as possible.

**FIPUG:** FIPUG believes a funded reserve of some amount would be an appropriate component. The burden is on FPL to satisfy the Commission that it is necessary to incur the cost of the line of credit, given FPL's size and credit worthiness.

**OPC:** This is obviously one of several possible approaches, but it is not the type of management decision to be decided in advance by the Commission.

**STAFF:** No position at this time.

**ISSUE 3:** Should FPL resume and increase its contribution to the Storm and Property Insurance Reserve Fund equal to \$7.1 million, net-of-tax, less the commitment fees for dedicated lines of credit, effective June 1, 1993?

**FPL:** Yes. This \$7.1 million accrual consists of \$4.1 million which represents our best estimate of the amount of T&D insurance in 1988, included in FPL's base rates, plus \$3 million, the amount the Company had previously accrued to the Storm Reserve, less the commitment cost for the \$300 million dedicated lines of credit.

**FIPUG:** FIPUG does not object to the resuming of contributions to the funded reserve. The commitment fees would be subject to satisfactory proof of their necessity.

**OPC:** The contribution is appropriate, but it should not be reduced by commitment fees which are ordinary business expenses.

**STAFF:** No position at this time.

**ISSUE 4:** Should the Commission authorize the implementation of a Storm Loss Recovery Mechanism, in addition to the base rates in effect at the time, for the recovery, over a period of five years, of all prudently incurred costs to repair or restore T&D facilities damaged or destroyed by a storm, which are in excess of the reserve?

**FPL:** Yes. Hurricanes are unpredictable and the timing of their occurrence is impossible to forecast. Base rates established prior to the occurrence of a hurricane do not include the costs for repairing the T&D system and restoring service that is not covered by insurance or the storm fund. Absent insurance, the Company should have the opportunity to recover these costs. The operation of the Storm Loss Recovery Mechanism would in no way restrict the detailed review and evaluation of the reasonableness and prudence of the costs incurred in restoring service and repairing damage. Moreover, the mechanism will not affect any evaluation of the adequacy of base rates.

**FIPUG:** No. By requesting the "loss recovery mechanism," FPL has gone beyond a substitution of self-insurance for the existing insurance policy. It has asked the Commission to require ratepayers to guarantee that storm damage won't affect earnings; in other words, to hold FPL risk-free. Further, this advance approval of dollar-for-dollar recovery would be without reference to the adequacy of base rates in effect at the time to provide sufficient revenues to cover all operating expenses, including the cost of repairs to the T&D system. If circumstances warrant at the time damage is experienced, FPL may request that the cost be amortized over a period longer than a year, which would allow the utility to absorb the expense without unduly affecting earnings. The Commission should not approve the loss recovery mechanism, which is a dollar-for-dollar pass-through which FPL would not receive even under the present combination of traditional insurance and a reserve for deductibles and excess claims.

**OPC:** No.

**STAFF:** No position at this time.

**ISSUE 5:** If FPL is permitted to implement a Storm Loss Recovery Mechanism, should FPL be authorized to increase customer rates if its earned return on equity is within its authorized range?

**FPL:** Yes. The recovery of storm related costs should be allowed through the Storm Loss Recovery Mechanism regardless of the Company's earned return. The Commission's monthly surveillance program will assure that the Commission knows of the Company's earned return on equity on a timely basis and we see no reason to conclude that this ongoing process to review the adequacy of base rate will not continue.

**FIPUG:** No.

**OPC:** No.

**STAFF:** No position at this time.

**ISSUE 6:** If FPL is authorized to implement a Storm Loss Recovery Mechanism, when should the five-year amortization period begin?

**FPL:** The five-year amortization period should begin when the Commission authorizes the factor to be implemented. After a storm, all storm restoration costs will be charged to the Storm and Property Insurance Reserve. Once the total storm restoration costs can be estimated, the Company will evaluate the impact and, should the Reserve balance become a deficit, file for a cost recovery factor to recover costs in excess of the Reserve. Once the factor is implemented, the five-year amortization should begin.

**FIPUG:** FIPUG opposes the guaranteed recovery clause. Any proposed amortization should be in the form of a request to extend recognition of the expense over a reasonable period of time, not to require ratepayers to provide dollar-for-dollar recovery of a particular expense in addition to the base rates they pay.

**OPC:** The amortization should begin with the first accounting period after incurrence of qualifying costs, but the

amortization should not affect customer rates unless and until the company's earned return on equity is below a reasonable range established specifically for purposes of testing the propriety of such an amortization under prevailing economic conditions.

**STAFF:** No position at this time.

**ISSUE 7:** If a storm cost recovery factor is approved by the Commission, how should the total cost eligible for recovery be collected?

**FPL:** We do not have a fully developed position at this time and believe this issue can be addressed when a request for recovery is made. Generally, costs to be recovered through the Storm Loss Recovery Mechanism should be jurisdictionalized and the retail portion of the costs should be allocated to customer classes in the same manner as similar costs were allocated in the Company's last full rate case, although some simplification may be required. When a storm such as Andrew hits, there is a tremendous lag and significant evaluation of the damage after the storm is over. Due to the necessity of timely recovery, estimates of damage will be used and we may not have the detailed data required to allocate costs in the same manner as the last rate case. We would propose that the costs be tracked on a functional basis. Once the costs to be collected from retail customers have been allocated to each function, the costs should be recovered using a methodology consistent with the recovery of other demand-related costs through the clauses. True-ups due to changes in the estimate of storm damage, and when the final accounting of storm damage is complete, should also be made in the same manner as true-ups in the capacity recovery clause.

**FIPUG:** FIPUG opposes a "storm cost recovery factor." If such a mechanism is approved, the related expenses should be allocated among customer classes in the same manner that the investment in the transmission and distribution facilities being repaired was allocated in the utility's last approved cost of service study.

OPC: Public Counsel takes no position on this issue because FPL has not proposed a specific recovery mechanism.

STAFF: The purpose of the recovery factor is to assure the company access to funds to repair and replace storm damaged Transmission and Distribution facilities in a timely manner. The rate class responsibility for the cost recoverable through this clause should mirror the way in which these repair costs would be allocated using the company's most recently approved cost of service study. Transmission and distribution costs should be separately identified. Transmission costs should be allocated to rate classes using the approved methodology from the cost study for allocating demand costs. Distribution costs should be allocated to rate classes using non-coincident peak demand by class. Once allocated on their separate factors, transmission and distribution costs within each rate class should be summed, and a recovery factor developed by dividing the class costs by the projected KWH by class for the recovery period. This is similar to the methodology used to develop the capacity costs recovery factor.

ISSUE 8: Is FPL's estimate of future hurricane activity and related damages reasonable?

FPL: Yes. FPL has used a statistical analysis of 94 years (1899 through 1992) of hurricane landfalls in Florida to assess future hurricane activity. Damages from Andrew, a category IV hurricane, were used as a basis for estimating potential damages for future hurricanes of all categories. FPL's proportionate ownership of the distribution lines in Florida was used to allocate a portion of those potential damages from all future Florida hurricanes to FPL. The result is a reasonable approximation of the long term average annual dollar cost for hurricane related damages to FPL's T&D system.

FIPUG: No position.

OPC: FPL has not established a logical relationship between the number or severity of hurricanes expected to strike the state and expected damages to FPL's T&D system based on its share of the state's T&D lines. The

proper area of inquiry should be how many hurricanes are expected to strike FPL's territory and how much damage can be expected given the Class III design standards to which FPL's system was built.

**STAFF:** No. Although, the methodology is reasonable, there is no precise value, only a range of values.

**ISSUE 9:** Should FPL be required to increase its Storm and Property Insurance Reserve to recognize the annual accruals which have been included in customer rates but were suspended at the company's request beginning January 1, 1991, by Order No. 24728, entered in Docket No. 910257-EI on July 1, 1991?

**FPL:** No. In 1990, FPL had reached the level in the Storm and Property Insurance Reserve deemed adequate by the Commission, with the \$350 million of T&D insurance coverage then available to FPL. Order No. 24728, entered in Docket No. 910257-EI on July 1, 1991, confirmed that the level of the fund, along with our insurance, was adequate to cover possible losses and contributions were stopped. Fund earnings have continued to be reinvested. Since we still have adequate insurance coverage until our policy expires on May 31, 1993, contributions to the fund should not resume until June 1, 1993. Beginning June 1, 1993, we are proposing to contribute, on an after tax basis to the Fund.

**FIPUG:** No position.

**OPC:** Yes.

**STAFF:** No, the annual accruals were suspended by Commission Order, based on the representation of FPL that additional accruals were not necessary. Since FPL could not reasonably foresee a dramatic increase in its insurance premiums, FPL should not be required to increase the reserve to recognize the suspended accruals.

**ISSUE 10:** Should FPL be required to file at least annually a report reflecting the company's efforts in obtaining reasonably priced T&D insurance coverage to replace any self-insurance coverage approved in this docket?

**FPL:** FPL would not object to filing a report annually with the Commission reflecting the Company's efforts in obtaining reasonably priced T&D insurance coverage to replace any self-insurance coverage. As an alternative to an annual report, we would respond promptly to any special request from the Commission or Staff.

**FIPUG:** FIPUG supports an ongoing evaluation of alternatives.

**OPC:** Yes.

**STAFF:** No position at this time.

#### VI. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<b><u>FPL</u></b> Hoffman	FPL	<u>(ELH-1)</u>	Statistical Analysis of hurricane activity and related damage estimates/Doc. No. 1
Hoffman	FPL	<u>(ELH-2)</u>	Economic analysis of proposed T&D insurance/Doc. No. 2
<b><u>OPC</u></b> Larkin	OPC	<u>(HL-1)</u>	Qualifications of Hugh Larkin, Jr. Other exhibits may be identified, as appropriate, during cross examination of witnesses.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>STAFF</u> Hoffman		<u>(STAFF-1)</u>	Chase Manhattan Summary of Terms and Conditions for Letter of Credit from OPC POD #14
Hoffman		<u>(STAFF-2)</u>	FPL study of 1993 Program Alternatives for T&D Insurance from OPC POD #16
Hoffman		<u>(STAFF-3)</u>	Responses to Interrogatories No. 11 and 12 from Staff's 1st set
Hoffman		<u>(STAFF-4)</u>	Late-Filed Deposition Exhibit #1
Hoffman		<u>(STAFF-5)</u>	Late-Filed Deposition Exhibit #2 - if available
Cavendish		<u>(STAFF-6)</u>	Selected pages from E.L. Hoffman Deposition
Cavendish		<u>(STAFF-6)</u>	Cavendish Deposition Exhibit #3
Cavendish		<u>(STAFF-7)</u>	Cavendish Deposition Exhibit #4
Cavendish		<u>(STAFF-8)</u>	Cavendish Deposition Exhibit #5
Cavendish		<u>(STAFF-9)</u>	Cavendish Deposition Exhibit #6

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Cavendish		(STAFF-10)	Interrogatory #6
Cavendish		(STAFF-11)	Interrogatory #8, Attachment 1

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VII. PROPOSED STIPULATIONS

None.

VIII. PENDING MOTIONS

Motion to Intervene filed by the Florida Undergrunder, May 10, 1993.

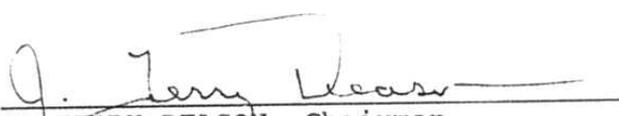
IX. RULINGS

None.

It is therefore,

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Chairman J. Terry Deason, as Prehearing Officer, this 17th day of May, 1993.

  
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J. TERRY DEASON, Chairman  
and Prehearing Officer

( S E A L )  
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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request:

- 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer;
- 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.