

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company. DOCKET NO. 060038-EI
FILED: APRIL 10, 2006

STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-06-0069-PCO-EI, filed January 26, 2006, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

Kathy L. Welch	Presentation of Staff Audit Report and Supplemental Audit Report (Issue: 22)
Joseph D. Jenkins	Shareholder/Ratepayer Cost Sharing (Issue: 35)
Joseph S. Fichera	Overview of Securitization; Expected Benefits and Protections for Ratepayers; Comparison of Storm-Recovery Bonds to Other Securities; Structuring, Marketing, and Pricing; Collaboration and Cooperation in Securitization Process; Best Practices – Recommended Procedures; Financing Order Recommendations; Comments on Direct Testimony of FPL Financing Witnesses (Issues: 48-59, 61-68, 71, 74, 82, 83)
Michael L. Noel	Marketing of Utility Securitization Financings as compared to Traditional Utility Financings; Competitive Bid vs. Negotiated Offering Process; Benefits and Potential Savings associated with Active Commission Involvement (Issues: 60, 61, 67)
Rebecca Klein	Experience with Ratepayer-Backed Bond Transactions in Texas (Issues: 62, 67)

b. All Known Exhibits

Witness Kathy L. Welch
KLW-1 – History of Testimony Provided by Kathy L. Welch
KLW-2 – Audit Report
KLW-3 – Supplemental Audit Report

DOCUMENT NUMBER-DATE

03212 APR 10 06

FPSC-COMMISSION CLERK

Witness Joseph S. Fichera:

- JSF-1 – Duties of Financial Advisor
- JSF-2 – Usage of Utility Fee Securitization/Ratepayer-Backed Bonds
- JSF-3 – Relative Value in Practice
- JSF-4 – The Benefits of 20% Risk Weighting
- JSF-5 – Ratepayer-Backed Bonds Historical Pricing Spreads to Credit Cards
- JSF-6 – Press Articles 2002–2005

Witness Michael L. Noel:

- MLN-1 – Recent Press Releases Regarding Abusive Practices and Malfeasance by Underwriters
- MLN-2 – Study by the Wisconsin Public Service Commission
- MLN-3 – Saber Partners Ratepayer-Backed Bond Assignments
- MLN-4 – Historical Pricing of Ratepayer-Backed Bonds

Witness Rebecca Klein:

- RK-1 – Issuance Advice Letter from CenterPoint Energy – Series A Transaction
- RK-2 – Supplemental Certificate from Issuing Utility

c. Staff's Statement of Basic Position

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 stated herein.

d. Staff's Positions on the Issues

CHARGES TO STORM RESERVE

2004 Storm Costs

ISSUE 1: Did FPL stop charging 2004 storm-related costs to the storm reserve by July 31, 2005, for restoration work related to the 2004 storm season, as required by Order No. PSC-05-0937-FOF-EI? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 2: Should the 2004 storm costs be adjusted for other items? If so, what is the appropriate adjustment?

POSITION: No position at this time.

ISSUE 3: Should an adjustment be made to reflect the actual December 31, 2005 storm cost deficiency related to the 2004 costs. If so, what is the amount of the adjustment?

POSITION: No position at this time.

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

POSITION: No position at this time.

2005 Storm Costs

ISSUE 5: What is the legal effect, if any, of Order No. PSC-05-0937-FOF-EI on the decisions to be made in this docket?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 7: Has FPL charged to the storm reserve any costs associated with replacements or improvements that would have been needed in the absence of 2005 storms, and so should be charged to regular O & M or placed in rate base and accounted for accordingly? If so, what adjustments should be made?

POSITION: No position at this time.

ISSUE 8: Has FPL quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 9: Has FPL quantified the appropriate amount of managerial employees payroll expense that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 10: Has FPL charged to the storm reserve appropriate amounts related to employee training for storm restoration work for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 11: Has FPL properly quantified the cost of tree trimming that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 12: Has FPL properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 13: Has FPL properly quantified the costs of call center activities that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 14: Has FPL appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the 2005 storms? If not, what adjustments should be made?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 16: Has FPL properly charged the normal cost of replacement to rate base and the normal cost of removal to the cost of removal reserve for the 2005 storms? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 17: If the Commission applies in this docket the methodology applied in Order No. PSC-05-0937-FOF-EI should the Commission take into account:

- a. Amounts not recovered through base rates due to the disruption of service due to the 2005 storm season or the absence of customers after the storms;
- 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 that must be postponed due to the urgency of storm restoration and accomplished after the restoration was completed (catch-up work);
- d. Uncollectible accounts receivable write-offs directly related to the storms;
- e. Incremental contractor, outside professional services and temporary labor costs due to work postponed due to the urgency of storm restoration and accomplished after the restoration was completed;
- f. Costs that would have otherwise been charged to clauses; and
- g. Costs that would have otherwise been charged to capital.

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 19: Have lawsuit settlement charges been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 20: Have contingency portions of estimated storm costs been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION: No position at this time.

ISSUE 21: Should FPL be required to true-up approved 2005 storm related costs? If so, how should this be accomplished?

POSITION: No position at this time.

ISSUE 22: Have the costs of repairing other entities' poles been charged to the storm reserve for 2005? If so, what adjustments should be made?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 24: Has FPL charged any other costs to the storm reserve that should be expensed or capitalized? If so, what adjustment should be made?

POSITION: No position at this time.

ISSUE 25: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of 2005 storm related costs to be charged against the storm reserve, subject to a determination of prudence in this proceeding?

POSITION: No position at this time.

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

POSITION: No position at this time.

PRUDENCE OF 2005 STORM CHARGES

ISSUE 27: Did FPL adequately inspect and maintain its distribution and transmission system for deterioration and overloading of poles prior to June 1, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

POSITION: No position at this time.

ISSUE 28: Did FPL adequately control vegetation around its distribution and transmission system prior to June 1, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

POSITION: No position at this time.

ISSUE 29: Did FPL adequately inspect and maintain its distribution and transmission system prior to June 1, 2005? If not, what action should the Commission take with regard to any surcharges it may approve as a result of this docket?

POSITION: No position at this time.

ISSUE 30: Did FPL adequately inspect and maintain its distribution and transmission system for deterioration and overloading of poles prior to October 23, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

POSITION: No position at this time.

ISSUE 31: Did FPL adequately control vegetation around its distribution and transmission system prior to October 23, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge? (

POSITION: No position at this time.

ISSUE 32: Did FPL adequately inspect and maintain its distribution and transmission system prior to October 23, 2005? If not, what amount, if any, should be

adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?

POSITION: No position at this time.

ISSUE 33: What adjustment, if any, should the Commission make associated with the failure of 30 transmission towers of the 500 KV Conservation-Corbett transmission line and the failure of six structures on the Alva-Corbett 230 transmission line?

POSITION: No position at this time.

ISSUE 34: Should FPL be authorized to accrue and collect interest on the amount of 2005 storm-related costs permitted to be recovered from customers? If so, how should it be calculated?

POSITION: No position at this time.

ISSUE 35: Should the Commission require FPL's storm recovery costs for 2005 be shared between FPL's retail customers and FPL and, if so, to what extent?

POSITION: No position at this time.

ISSUE 36: Taking into account any adjustments identified in the preceding issues, what is the amount of reasonable and prudently incurred 2005 storm related costs that should be recovered from customers?

POSITION: No position at this time.

STORM DAMAGE RESERVE

ISSUE 37: What is the appropriate level of funding to replenish the storm damage reserve to be recovered through a mechanism approved in this proceeding?

POSITION: No position at this time.

ISSUE 38: What portion, if any of the Reserve must be held in a funded Reserve and should there be any limitations on how the Reserve may be held, accessed or used?

POSITION: No position at this time.

RECOVERY MECHANISM

ISSUE 39: Is the issuance of storm-recovery bonds and the imposition of the Storm Charge, as proposed by FPL, reasonably expected to result in lower overall costs or avoid or significantly mitigate rate impacts to customers as compared with alternative methods of financing or recovering storm-recovery costs and storm-recovery reserve?

POSITION: No position at this time.

ISSUE 40: Does funding the reserve meet the definition of a cost within the meaning of Internal Revenue Service Revenue Procedure 2005-62? If not, what action should the Commission take with respect to the storm reserve?

POSITION: No position at this time.

ISSUE 41: Should the unamortized balance of 2004 storm costs continue to be recovered through the current surcharge or should the balance be added to any amounts to be securitized?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 43: Based on resolution of the preceding issues, what amount, if any, should the Commission authorize FPL to recover through a traditional surcharge or other form of recovery?

POSITION: No position at this time.

ISSUE 44: Should the Commission approve FPL's alternative request to implement a surcharge to be applied to bills rendered on or after June 15, 2006 for a period of three years for the purpose of recovering its prudently incurred 2005 storm costs and attempting to replenish the Reserve? If so, how should the Commission determine the following:

- a. **The amount approved for recovery; and**
- b. **The cost allocation to the rate classes.**

POSITION: No position at this time.

Terms and Conditions of Financing Order for Securitized Amounts

ISSUE 45: **What adjustment, if any, should be made so that the treatment of the deferred tax liability is revenue neutral from the ratepayer's perspective?**

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 47: **If recovery of the taxes assessed on the storm recovery charges are not securitized, should the tax charge be included in the irrevocable financing order?**

POSITION: No position at this time.

ISSUE 48: **Should FPL indemnify its ratepayers against an increase in the servicer fee in the event of the servicer's default due to negligence, misconduct, or termination for cause?**

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 55: In the event any amounts remain in the Collection Account after all storm recovery bonds have been retired, what should be the disposition of these funds?

POSITION: No position at this time.

ISSUE 56: How should the Commission determine that the upfront bond issuance costs are appropriate?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 58: Is FPL's process for determining whether the upfront bond issuance costs satisfy the statutory standard of Section 366.8260(2)(b)5. reasonable and should it be approved?

POSITION: No position at this time.

ISSUE 59: Is FPL's process for determining whether the on-going costs satisfy the statutory standard of Section 366.8260(2)(b)5. reasonable and should it be approved?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 61: What additional terms, conditions or representations should be made in the financing order to enhance the marketability of the bonds and achieve the lowest possible cost?

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 64: Should the Financing Documents be approved in substantially the form proposed by FPL, subject to modifications as addressed in the draft form of financing order?

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 67: How should the Commission ensure that the structure, marketing, and pricing of the storm recovery bonds result in the lowest possible burden on FPL's ratepayers?

POSITION: No position at this time.

ISSUE 68: Is the proposed structure, expected pricing and financing costs of the storm-recovery bonds reasonably expected to result in lower overall costs or avoid or significantly mitigate rate impacts to customers as compared with alternative methods of recovery?

POSITION: No position at this time.

ISSUE 69: Should the Commission approve the use of floating rate securities and interest rate swaps if their use is reasonably expected to provide customer savings?

POSITION: No position at this time.

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

POSITION: No position at this time.

ISSUE 71: What additional flexibility should FPL be afforded in establishing the terms and conditions of the storm-recovery bonds, including, but not limited to, repayment schedules, interest rates, and other financing costs?

POSITION: No position at this time.

ISSUE 72: If the Commission approves FPL's proposed financing order, should FPL be allowed to establish a regulatory asset for the amount to replenish the Reserve?

POSITION: No position at this time.

ISSUE 73: Should the Commission authorize FPL to establish a separate regulatory asset for the storm recovery property sold to the SPE and a separate regulatory asset for income taxes payable on the storm-recovery costs to be financed?

POSITION: No position at this time.

ISSUE 74: Based on resolution of the preceding issues, should a financing order in substantially the form proposed by FPL be approved, including the findings of fact and conclusions of law as proposed?

POSITION: No position at this time.

ISSUE 75: If the Commission approves the substance of FPL's primary recommendation, should the financing order require FPL to reduce the aggregate amount of the bond issuance in the event market rates rise to such an extent that the initial average retail cents per kWh charge associated with the bond issuance would exceed the average retail cents per kWh 2004 storm surcharge currently in effect?

POSITION: No position at this time.

ISSUE 76: Should the Commission approve FPL's request that a surcharge be applied to bills rendered on or after August 15, 2006 to enable FPL to recover its prudently incurred 2005 storm costs in the event the issuance of storm-recovery bonds is delayed? If so, how should the Commission determine the following:

- a. The amount approved for recovery;
- b. The calculation of the surcharge;
- c. The cost allocation to the rate classes; and
- d. The surcharge's termination date.

POSITION: No position at this time.

Terms for Traditional Recovery of Non-Securitized Amounts

ISSUE 77: If the Commission approves a recovery mechanism other than securitization, should an adjustment be made in the calculation of interest to recognize the storm-related deferred taxes?

POSITION: No position at this time.

ISSUE 78: If the Commission approves a recovery mechanism other than securitization, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery?

POSITION: No position at this time.

RATES

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

POSITION: No position at this time.

ISSUE 80: If the Commission approves recovery of any storm-related costs through securitization, how should the recovery of these costs be allocated to the rate classes?

POSITION: No position at this time.

ISSUE 81: If the Commission approves recovery of any storm-related costs through securitization, what is the appropriate recovery period for the Storm Recovery Charge?

POSITION: No position at this time.

ISSUE 82: Is FPL's proposed Storm Charge True-Up Mechanism appropriate and consistent with 366.8260, Florida Statutes and should it be approved? If not, what formula-based mechanism for making expeditious periodic adjustments to storm-recovery charges should be approved?

POSITION: No position at this time.

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

POSITION: No position at this time.

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

POSITION: Staff agrees with the company's proposal to terminate the 2004 Storm Restoration Surcharge on the effective date of the implementation of the new Storm Recovery Charge as long as FPL properly accounts for all amounts expected to be collected through the existing surcharge to the termination date.

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

POSITION: No position at this time.

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

POSITION: No position at this time.

OTHER

ISSUE 87: Are revenues collected through the approved mechanism for recovery (securitization or surcharge) excluded for purposes of performing any potential retail base rate revenue refund calculation under the Stipulation and Settlement approved by Commission Order PSC-05-0902-S-EI?

POSITION: No position at this time.

ISSUE 88: Should this docket be closed?

POSITION: No position at this time.

e. Pending Motions

Staff has no pending motions.

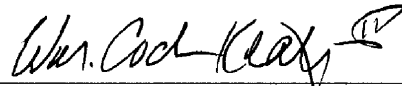
f. Pending Confidentiality Claims or Requests

Staff has no pending confidentiality requests. Staff is aware of four pending confidentiality requests from FPL.

g. Compliance with Order No. PSC-06-0069-PCO-EI

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

Respectfully submitted this 10th day of April, 2006.



WM. COCHRAN KEATING IV,
SENIOR ATTORNEY

FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0863
Telephone: (850) 413-6199

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FILED: APRIL 10, 2006

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's Prehearing Statement was furnished to the following, by electronic and U.S. Mail, on this 10th day of April, 2006.

John W. McWhirter, Jr., Esq.
McWhirter Reeves Law Firm
Attorney for FIPUG
400 North Tampa Street, Suite 2450
Tampa, FL 33601-3350

Michael Twomey, Esq.
Attorney for AARP
P. O. Box 5256
Tallahassee, FL 32314-5256

McWhirter Reeves Law Firm
Timothy J. Perry, Esq.
117 South Gadsden Street
Tallahassee, FL 32301

R. Scheffel Wright, Esq./
John T. LaVia, III, Esq.
Young van Assenderp, P.A.
Attorneys for FRF
225 South Adams Street, Suite 200
Tallahassee, Florida 32301

Christopher M. Kise, Solicitor General
Jack Shreve, Senior General Counsel
OFFICE OF THE ATTORNEY GENERAL
The Capitol-PL01
Tallahassee, Florida 32399-1050

R. Wade Litchfield, Esq./Patrick M. Bryan, Esq.
Attorney for Florida Power & Light Company
700 Universe Blvd.
Juno Beach, FL 33408-0420

William G. Walker III
Florida Power & Light Company
Regulatory Affairs
215 South Monroe Street, Suite 810
Tallahassee, FL 32301-1859

Office of Public Counsel
Harold McLean, Esq./Charles Beck, Esq.
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Lieutenant Colonel Karen White and
Captain Damund Williams
AFCESA/ULT
139 Barnes Drive
Tyndall Air Force Base, Florida 32403


WM. COCHRAN KEATING IV,
SENIOR ATTORNEY

FLORIDA PUBLIC SERVICE COMMISSION
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Telephone No. (850) 413-6199