

ORIGINAL

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Sent: Friday, April 28, 2006 10:49 AM
To: Filings@psc.state.fl.us
Subject: FW: Docket No 060038-EI; Post Hearing Statement
Attachments: FEA's Posthearing Statement of Issues and Positions.doc

2nd attempt

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From: Williams Damund E Capt AFCESA/ULT
Sent: Friday, April 28, 2006 9:09 AM
To: 'filings@psc.state.fl.us'
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Subject: Docket No 060038-EI; Post Hearing Statement

- 1. Capt Damund E. Williams, AFLSA/JACL-ULT, 139 Barnes Drive, Suite 1, Tyndall AFB, FL 32403-5319, (850) 283-6350, damund.williams@tyndall.af.mil, is the person responsible for this electronic filing;
2. The filing is to be made in Docket 060038-EI;
3. The filing is made on behalf of the Federal Executive Agencies;
4. The total number of pages is 17; and

The attached document is the Federal Executive Agencies' Post Hearing Brief and Statement of Issues and Positions.

<<FEA's Posthearing Statement of Issues and Positions.doc>>

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Florida Power & Light Company's
Petition for Issuance of a Storm Recovery
Financing Order

Docket No: 060038-EI
Filed: April 28, 2006

THE FEDERAL EXECUTIVE AGENCIES'
POST HEARING BRIEF AND STATEMENT OF ISSUES AND POSITIONS

The Federal Executive Agencies file this post hearing brief and post hearing statement of issues and positions, in accordance with the "Order Establishing Procedure" filed in this proceeding on January 26, 2006.

STATEMENT OF POST HEARING POSITION

FEA reiterates its general support of OPC on the issues in this matter and specifically on the issue of adjustments.

On the issue of securitization, FEA supports securitization over a 12 year recovery period, as opposed to a shorter, or 3 year, recovery period. This option appears to be the most viable and feasible for all parties and classes affected. As to cost allocation between customer classes, FEA supports the position of FIPUG. FEA agrees with FIPUG that customers receiving service from transmission systems should not be charged for damages to the distribution system. FEA further concurs with FIPUG that the cost of service study FPL proposes to use to allocate cost was never approved by the Commission and, as such, is not the proper cost of service study to be considered in this matter, rather the last cost of service methodology filed and approved by the Commission in Docket No. 830465-EI is the proper cost of service methodology.

STATEMENT OF ISSUES AND POSITIONS:

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

ISSUE 10: WITHDRAWN

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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.
- h. Vacation Buy-Backs;
- i. Nuclear Payroll Expected to be Recovered Through Insurance

FEA: *a. – i. Agree with FIPUG.*

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

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

ISSUE 23: WITHDRAWN

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?

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

ISSUE 29: WITHDRAWN

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

ISSUE 32: WITHDRAWN

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

ISSUE 40: WITHDRAWN

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?

FEA: *Agree with FIPUG.*

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

FEA: *Agree with FIPUG.*

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?

FEA: *FEA supports recovery through securitization. We agree with OPC.*

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.

FEA: *Agree with OPC.*

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?

FEA: *No position.*

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

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with OPC.*

ISSUE 49: WITHDRAWN

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

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

ISSUE 54: STIPULATED (SEE SECTION X.)

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?

FEA: *Agree with FIPUG.*

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

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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?

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with FIPUG.*

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

FEA: *Agree with OPC.*

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

FEA: *Agree with OPC.*

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?

FEA: *Agree with FIPUG.*

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

FEA: *Agree with FIPUG.*

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

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with OPC.*

ISSUE 68: Is the "proposed structur[e], 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?"

FEA: *Agree with OPC.*

ISSUE 69: WITHDRAWN

ISSUE 70: WITHDRAWN

ISSUE 71: What 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, as well as the use of floating rate securities, interest rate swaps, and call provisions?

FEA: *Agree with OPC.*

ISSUE 72: STIPULATED (SEE SECTION X.)

ISSUE 73: STIPULATED (SEE SECTION X.)

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?

FEA: *Agree with OPC.*

ISSUE 74(a): If the Commission votes to issue a financing order: What special procedures (if any) should be used after the Commission vote and before the issuance of the financing order to ensure that the order accurately reflects the Commission's decision and meets the anticipated requirements of the financial community?

FEA: *Agree with OPC.*

ISSUE 74(b): If the Commission votes to issue a financing order: What post-financing order regulatory oversight is appropriate and how should that oversight be implemented?

FEA: *Agree with OPC*

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?

FEA: *No position.*

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.

FEA: *a. - d. Agree with FIPUG.*

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?

FEA: *Agree with FIPUG.*

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?

FEA: *Agree with FIPUG.*

RATES

ISSUE 79: STIPULATED (SEE SECTION X.)

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?

FEA: *Agree with FIPUG.*

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?

FEA: *FEA supports a 12 year recovery period.*

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?

FEA: *No position.*

ISSUE 83: STIPULATED (SEE SECTION X.)

ISSUE 84: STIPULATED (SEE SECTION X.)

ISSUE 85: STIPULATED (SEE SECTION X.)

ISSUE 86: STIPULATED (SEE SECTION X.)

OTHER

ISSUE 87: STIPULATED (SEE SECTION X.)

ISSUE 88: Should this docket be closed?

FEA: *No position.*

s/ Karen White

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished by electronic mail or by United States First Class Mail this 10th day of April, 2006 to the following:

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