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 Subject: Re: Electronic Filing - Docket 060038-EI
 Attachments: AARP Post hearing position in FPL storm case April 28, 2006 Draft.doc



AARP Post
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- >a. Person responsible for this electronic filing:
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 - >b. Docket No. 060038-EI
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 - >In re: Florida Power & Light Company's Petition for Issuance of a Storm Recovery Financing Order.
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 - >c. Document being filed on behalf of AARP
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 - >d. There are a total of 9 pages.
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 - >e. The document attached for electronic filing is AARP's Post-Hearing Brief and Statement of Issues and Positions.

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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

AARP'S POST HEARING STATEMENT OF ISSUES AND POSITIONS

Pursuant to Order No. PSC-06-0301-PHO-EI, issued April 18, 2006, AARP files its Post Hearing Statement Of Issues And Positions, as follows.

BASIC POSITION:

AARP: *In view of recent large fuel and 2004 storm increases, costs approved here should be limited to the full extent allowed by law. Customers should enjoy the benefit of the doubt when FPL's facilities inspection/maintenance and tree-trimming practices are examined. Questions of "double-counting" of costs should be strictly construed against the utility where legally permissible. "Lost revenues" should be considered anathema. There should be no storm fund replenishment through securitization and no more than \$200 million funded through a surcharge.*

GENERAL ADOPTION OF OFFICE OF PUBLIC COUNSEL'S POSITIONS:

Except where specific statements of position are listed below, AARP will, for all other issues, adopt the positions stated by the Office of Public Counsel, including where the Office of Public Counsel has stated its position as being "no position."

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?

AARP: *There is a "new day" for storm cost recovery closely akin to a recovery clause with the potential for interim rate relief prior to evidentiary hearing. Consequently, there should be \$0 for a storm reserve funded through securitization, a process involving borrowing money to invest it at a lower rate. Reserve funding, if by surcharge, should be no more than \$200 million, if a reserve is funded, which is not essential given the interim surcharge relief available.*

ARGUMENT:

Initially, the Commission should directly confront the totality of what FPL is asking this Commission to financially impose on the utility's customers. While often publicly described as a petition seeking authority to issue some \$1,050 million in storm-recovery bonds, the reality is that FPL is asking Commission permission to bill its customers some \$2,086 million, or a little more than \$2 billion, in total revenues over the proposed 12 year life of the securitization.

(Exhibit 6, total of entries on line 16 equals \$2,086,040,000.)

Borrowing At 5% To Invest At 4% Is Economically Unsound

In response to questioning by Commissioner Deason, Mr. Dewhurst generally acknowledged that the historical ten year average interest earned on FPL's funded storm reserve had been "slightly above 4 percent." (T-1781.) Having customers support a storm reserve accrual through base rates and then investing those monies in a funded reserve at 4 percent may have made sense historically, but borrowing \$400 million at slightly over five percent in order to invest it in a fund earning slightly more than four percent (a net loss of 1% on the total, not counting associated costs and fees, especially where the customers bear the total costs, hardly seems prudent. AARP fails to see either the wisdom or necessity of such a proposition, especially given the utility's ability to rapidly recover storm cost-recovery expenditures through interim surcharges prior to evidentiary hearing. The Commission should think "small" when considering how much of a reserve to fund through securitization and should, in fact, provide for no storm reserve fund when securitization results in a net interest loss. Every dollar not bonded under FPL's proposal will result in substantial tax and interest savings to the customers, as well as any other fees that are proportional to the principal.

A \$650 Million Storm Reserve Results In Excessive Fees, Taxes And Interest

Witness Stewart testified that one of his reservations with the \$650 million reserve requested by FPL was that it would necessarily incur significantly more interest expense and other costs and fees than a smaller reserve. (T-1054.)

Consistent with Mr. Stewart's testimony on increased costs and fees, it is clear the \$1,050 million principal financing figure understates the final financial impact of this Commission's ultimate decision because it ignores the impact of taxes, compound interest at an average rate of 5.06% and annual administrative costs of \$850,000, among others. Consequently, every dollar awarded by the Commission for securitization will ultimately cost FPL's customers roughly two dollars through securitization tariff charges. The Commission should, therefore, seek to reduce the dollars securitized to the maximum extent possible whether by disallowing the legally permissible maximum of "costs" claimed to be storm-related, or, more readily, by reducing or completely eliminating the storm reserve to be bonded.

For example, as shown on Mr. Dewhurst's Exhibit 6, the total interests on the bonds over 12 years with the principal amount of \$1,050 million is \$373.4 million (line 9), while the taxes to be borne by the customers is \$652.2 million (line 14) for the total costs shown associated with the borrowing of \$1,025.6 million, which does not include the associated regulatory assessment fees and local government franchise fees that customers will also have to pay. Underwriting fees are .5 percent of the principal and equal \$5.25 million, while it appears likely that some of the balance of \$6,164,859 of the "estimated up-front storm recovery bond issuance costs" are also proportional and could be reduced by lowering the principal. (See Exhibit 8.)

The \$400 million pre-tax related to the proposed \$650 million storm reserve is 38.1 percent of the \$1,050 million sought to be bonded. Completely eliminating the \$650 million storm reserve from the financing would, consequently, reduce the revenues to be collected from customers over the 12 year term by \$794,781,124 ($\$2,086,040,000 \times 38.1\%$) without regard to any additional savings achieved for customers associated with fees and costs proportional to the principal, franchise fees or regulatory assessment fees. Keep in mind that the \$400 million will, according to Footnote 1 of Exhibit 6, be borrowed at “a weighted average interest rate of 5.06%,” but be invested at a likely return of slightly more than 4 percent of the ten year historical average is maintained.

“The Level Of The Reserve Has No Impact On FPL’s Hurricane Exposure”

Mr. Dewhurst testified at page 19 of his rebuttal testimony that:

Clearly, the level of the reserve has no impact on FPL’s hurricane exposure. Accordingly, a lower reserve will simply shorten the expected time before it becomes necessary to return to the Commission and seek recovery of additional restoration costs. Other things equal, this will lead to greater rate volatility.

While he testified that a lower reserve, given a certain frequency of damaging storms, would require FPL to return more frequently to the Commission for storm cost recovery, Mr. Dewhurst conceded that FPL had an expectation of recovering its prudent storm costs whether through a hearing that resulted in a surcharge or one resulting in a securitization order. (T-1763.)

To the extent that a lower surcharge reserve might result in more frequent hearings if the level of storm damages causes the reserve to go negative, AARP and all the customer parties have taken the position that they prefer a reserve fund of \$150 to \$200 million as opposed to the

\$650 million sought by FPL. (See parties positions on Issue 37.) To the extent FPL has an expectation that it will fully recover its prudent costs whether by having a larger reserve through securitization or a smaller reserve with more frequent hearings and surcharges it should be indifferent to the methodology and differ to its customers' preferences.

There Is A Higher Level Of Cost Review And Scrutiny With Hearings

Witness Stewart testified that he thought one of the advantages of having a smaller reserve fund was that the review of claimed storm recovery costs would be more stringent through hearings than if the reserve were larger and FPL merely withdrew funds from the established reserve. (T-1053.) While claiming that there were detriments associated with frequent hearings, Mr. Dewhurst agreed "that in general there will be a heightened level of scrutiny if there is an adversarial process in which people go through extensive discovery. (T-1756.)

To the extent that a lower reserve will result in more frequent hearings and greater regulatory scrutiny of the reasonableness and prudence of claimed storm recovery costs, AARP is of the view that a lower reserve is preferable.

FPL Can Expect Rapid Interim Surcharge Relief In The Event Damages Exceed The Reserve

Witness Stewart testified that FPL is not prejudiced by a smaller reserve fund that is rendered negative as a result of storm damages exceeding the fund balance because of the utility's apparent ability to quickly obtain interim storm damage surcharge relief without first having an evidentiary hearing on the matter. (T-1052.) During his cross-examination, Mr. Dewhurst agreed that FPL received an interim surcharge in its 2004 storm case pending the full

prudency review and, further, that the interim surcharge was granted without the benefit of a prior evidentiary hearing. (T-1759.)

In fact, review of the final order in the 2004 storm cost recovery case will reveal that FPL was granted permission to begin an interim storm surcharge within just less than three months after petitioning to do so.

Inasmuch as FPL is not prejudiced by having to petition for interim storm surcharge relief and because having a smaller reserve fund will both result in lower securitization costs and likely greater scrutiny of the utility's claimed storm cost recovery expenses, AARP believes that a smaller storm damage reserve, as testified to by Mr. Stewart, is greatly preferable to the larger \$650 million reserve testified to by Mr. Dewhurst and requested by FPL.

There Is No Analytical Way To Establish An Appropriate Reserve Fund Level

In response to a question by Commissioner Carter, Mr. Dewhurst acknowledged that there was no analytical way of establishing the amount of the reserve fund. (T-138.) In fact, FPL and Mr. Dewhurst have not claimed that the \$650 million figured was arrived at analytically. Rather, with virtually no discussion in his testimony, but acknowledging "there is no single correct Reserve balance," Mr. Dewhurst turned Mr. Harris' expected average annual cost for windstorm losses of approximately \$73.7 million into a case for a \$650 million reserve.

Mr. Stewart's testimony was that a reserve as small as \$60 to \$100 million would have covered the actual storm damage losses experienced by FPL in 13 of the last 16 years. (T-1050.)

Conclusion

There is substantially a new regulatory environment now that will allow FPL to rapidly seek interim storm cost surcharge relief in the event that it suffers damages sufficient to deplete

its storm reserve. The \$650 million reserve testified to by Mr. Dewhurst and requested by FPL is not supported by an analytical approach or otherwise supported by competent, substantial evidence. Approving the \$650 million reserve will result in huge and unnecessary interest expense and taxes and other associated fees and costs. The \$400 million pre-tax bonded to support a \$650 million reserve will be borrowed at an interest rate slightly above 5 percent, but will be invested in a fund that historically earned only slightly more than 4 percent. The Commission should not approve any level of storm reserve that requires borrowing money at a rate 25 percent higher than it can be invested in a funded reserve. To the extent the Commission approves a storm reserve fund at all, it should do so through the implementation of a surcharge whose term of years is sufficient to keep the surcharge at or lower than the currently approved storm surcharge. The level of a storm reserve should be no greater than the \$200 million testified to by Mr. Stewart.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this petition has been served by U.S.

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