FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

May 15, 2006

Docket No. 060038-EI – Petition for issuance of a storm recovery financing order, by Florida Power & Light Company.

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?
Recommendation: No. The 2004 storm-related costs should be reduced by $14,197,004.

APPROVED

Issue 2: Should the 2004 storm costs be adjusted for other items? If so, what is the appropriate adjustment?
Recommendation: This is a moot issue because all of the proposed adjustments have been addressed in Issue 1.

APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY	DISSENTING
Katrina J. Tew	J. Terry Deason
Lisa Polak Edgar	
J. Terry Deason	
Matt Carlson	

REMARKS/DISSENTING COMMENTS:

Commissioners Deason and Arriaga dissented on Issues 17b, 17c, 17e, and 28.

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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?
Recommendation: Yes. The 2004 reserve deficiency should be reduced by $14,626,568 (jurisdictional) to match the recommendations made by staff in Issue 1 and the related interest expense. The December 31, 2005 difference between the general ledger and FPL witness Davis' Exhibit 19, along with other month-to-month variances attributable to actual interest accrued and billed revenues, should be addressed as part of a final true-up.

APPROVED

Issue 4: Has FPL properly accounted for the after-tax effects of interest on unrecovered storm costs?
Recommendation: Yes, FPL has properly accounted for the after-tax effects of interest on unrecovered storm costs.

APPROVED

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?
Recommendation: The 2004 Storm Order does not operate as binding precedent with respect to the decisions to be made in this proceeding, including determinations of the appropriate accounting for 2005 storm costs and whether any "sharing" of 2005 storm costs should be required. The decisions in this docket should be made based on the record evidence in this proceeding.

APPROVED

Issue 6: What is the appropriate methodology to be used for booking the 2005 storm damage costs to the Storm Damage Reserve?
Recommendation: The incremental cost approach, including an adjustment to remove normal capital costs, is the appropriate methodology to be used for booking the 2005 storm damage costs to the Storm Damage Reserve.

APPROVED

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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?
Recommendation: Yes. The 2005 storm-related costs should be reduced by $6,474,957.

APPROVED

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?
Recommendation: No. Non-management employee labor payroll expense and the employee benefits charged to the storm reserve for 2005 should be reduced by $17,925,918. The Company should also be required to provide substantiation of the reassignment of the $2,730,000 from clause activity to the storm reserve in its clause true-up filings.

APPROVED

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?
Recommendation: No. Managerial employees payroll expense charged to the storm reserve for 2005 should be reduced by $768,000 to remove exempt employee overtime pay.

APPROVED

Issue 10: WITHDRAWN

WITHDRAWN

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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?
Recommendation: No. The cost of tree trimming charged to the storm reserve for 2005 should be reduced by $1,100,000.

APPROVED

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?
Recommendation: No. Staff recommends that $5,738,000 should be removed from the 2005 storm costs.

APPROVED

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?
Recommendation: No. An adjustment of $520,264 should be made to reduce telecommunications expense. No other adjustment to call center expense should be made.

APPROVED

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?
Recommendation: No. The Commission should disallow $1,143,916 in image enhancing and conservation expenses that FPL charged to the 2005 storm reserve. This amount represents $577,272 in thank you ad expenses, $144,068 in public relations expenses and $422,576 in employee campaign radio, web cam, and conservation advertisements.

APPROVED

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Issue 15: Has uncollectible expense been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?
Recommendation: No. The uncollectible account expense of $3,582,000 should be removed from the storm reserve.

APPROVED Staff is directed to clarify in order as noted at the conference.

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?
Recommendation: No. The 2005 storm-related costs should be reduced by $8,745,000 to reflect the increased estimate for capital expenditures.

APPROVED

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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;

g. Costs that would have otherwise been charged to capital;

h. Vacation Buy-Backs; and

i. Nuclear Payroll Expected to be Recovered Through Insurance.

Recommendation:
No for Issues 17a, 17b, 17c, 17d, 17e, and 17h. These factors do not represent reasonable and prudent costs that were or planned to be charged to the storm damage reserve. They do not directly relate to storm restoration. Consistent with the staff recommendation for Issue 35, these amounts should be borne by FPL's shareholders.

Issue 17d is addressed in Issue 15. Issues 17f, 17g, and 17i are addressed in Issue 8.

APPROVED

Issues 17a, 17b, 17c, 17d, 17e and 17h are approved. Commissioners Deason and Arriaga dissented on 17b, 17c and 17e. Issues 17f, 17g and 17i are addressed in separate issues.

Issue 18: Have landscaping costs been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?
Recommendation: No. Landscaping costs of $3,816,864 should be removed from the storm costs.

APPROVED

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Issue 19: Have lawsuit settlement charges been appropriately charged to the storm reserve for 2005? If not, what adjustments should be made?
Recommendation: No. The 2005 storm costs should be reduced by $2,849,571 for lawsuit settlement charges.

APPROVED

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?
Recommendation: No. Storm costs should be adjusted by $26,253,351 to remove remaining contingencies.

APPROVED

Issue 21: Should FPL be required to true up approved 2005 storm-related costs? If so, how should this be accomplished?
Recommendation: Yes. The true-up mechanism for the approved 2005 storm-related costs should be based on the cut-off dates approved in Issue 26. These approved cut-off dates should be the basis for determining whether any costs should be charged to base rates rather than the storm reserve. FPL should be required to provide an annual true-up report by March 1st of each year for the preceding year ended December 31st until the repairs are completed.

APPROVED

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?
Recommendation: Yes. Storm costs should be reduced in the amount of ~~$10,564,384~~ $6,407,769 for the costs of replacing other entities' poles. ~~Of that amount~~ In addition, $4,156,615 should be booked ~~to capital, and offset~~ as an offset to rate base when reimbursement is received.

APPROVED with noted modifications.

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Issue 23: WITHDRAWN

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?
Recommendation: Yes. The 2005 storm-related costs should be reduced by $561,275. However, FPL should be authorized to charge the storm reserve to the extent that any of the disallowed $316,250 in repair costs is not recovered through an existing warranty.

APPROVED

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?
Recommendation: The appropriate amount of 2005 storm-related costs to be charged against the storm reserve, subject to a determination of prudence, is $725,398,982 ($725,972,500 system).

MODIFIED modified to adjust the appropriate amount of 2005 storm-related costs to be charged against the storm reserve, subject to a determination of prudence to $729,552,313.

Issue 26: At what point in time should FPL stop charging costs related to the 2005 storm season to the storm reserve?
Recommendation: Only the projects already identified in this proceeding related to damage from the 2005 storm season on which construction has physically begun by December 31, 2006, should be allowed to be charged to the storm reserve. However, FPL has justified the reasons for the delay in starting some of the nuclear unit repairs and should be allowed to charge those costs to the storm reserve for projects on which construction has physically begun by December 31, 2008. A true-up should be performed when the projects are completed. FPL should submit a schedule of the allowable projects in progress as of December 31, 2006, by February 15, 2007. This schedule should include the amount actually spent to date, the estimated total cost, the start date and the estimated completion date.

APPROVED

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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?
Recommendation: No. A downward adjustment of $5,900,000 is warranted because: (1) some 2004 repair had not been completed prior to June 1, 2005, (2) FPL does not know whether it met the requirements of the National Electrical Safety Code (NESC) at each failed pole, (3) FPL has not shown that an increased level of pole inspection and maintenance was not prudent and funded by its base rates, and (4) FPL has not shown that its level of pole inspection and maintenance did not contribute to higher hurricane restoration costs in 2005. The recommended capital offset adjustment amount is $1,440,000. The recommended expense adjustment amount is $4,460,000. No other fines or penalties are recommended because there is no evidence that FPL refused to comply with or willfully violated any lawful rule or order of the Commission, or any statute administered by the Commission.

MODIFIED modified to adjust the expense amount to $1,650,000.

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?
Recommendation: A downward adjustment of $3,400,000 is warranted because: (1) in 2004 and 2005, FPL was aware of avoidable tree-related customer outages, (2) in 2004 and 2005 FPL limited the implementation of a program that contributes to decreased tree-related customer outages, (3) FPL has failed to show that its reduction to the level of vegetation management, which was included in its last rate case, was prudent, and (4) FPL has failed to demonstrate that its reduced level of vegetation management did not contribute to higher hurricane restoration costs in 2005. The recommended capital offset adjustment amount is $850,000 and the recommended expense adjustment amount is $2,550,000. No other fines or penalties are recommended because there is no evidence that FPL refused to comply with or willfully violated any lawful rule or order of the Commission, or any statute administered by the Commission.

APPROVED Commissioners Deason and Carriaga dissented.

Issue 29: WITHDRAWN

WITHDRAWN

(Continued from previous page)

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?
Recommendation: This issue is duplicative of Issue 27. No one identified a rule, order or statute administrated by the Commission and specific to inspection and maintenance of distribution and transmission poles that FPL failed to implement or comply with for the period January 1, 2005 through October 23, 2005. Hence, no fines or penalties are recommended.

APPROVED

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?
Recommendation: This issue is duplicative of Issue 28. No one identified a rule, order or statute administrated by the Commission and specific to vegetation around distribution and transmission facilities that FPL failed to implement or comply with for the period January 1, 2005 through October 23, 2005. Therefore, no fines or penalties are recommended.

APPROVED

Issue 32: WITHDRAWN

WITHDRAWN

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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?

Recommendation: The resolution of this issue does not impact the ultimate decision in this case because rate base allocations are removed from the storm restoration charges. Staff recommends an adjustment of $12,000,000 to rate base because: (1) in 1998 FPL knew that a bolt problem existed, (2) FPL's 1998 analysis called for a revised construction standard for tower bolts, and (3) FPL failed to implement the revised construction standard prior to the 2005 hurricane events. The $12,000,000 adjustment includes an estimate of $11,900,000 for storm restoration costs of the Conservation-Corbett 500 KV transmission line and $100,000 for storm restorations costs for the Alva-Corbett 230 KV transmission line.

APPROVED

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?

Recommendation: FPL should be allowed to charge interest at the applicable 30-day commercial paper rate on the balance of storm damage restoration costs permitted to be recovered from ratepayers. To the extent FPL has already accrued interest on a balance of storm damage restoration costs that has not been deemed to be reasonable and prudently incurred, the incremental interest should be netted against the amount approved for recovery. Based on the staff's recommendations in the prior issues, the interest should be reduced by $1,365,500 (jurisdictional).

APPROVED

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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?
Recommendation: Yes, FPL shareholders should share in the adverse effects of the 2005 hurricane season and they will by virtue of the various adjustments made in earlier issues to this recommendation, to the extent they have an adverse effect on FPL's return on equity. The following table depicts the adverse impacts to be borne by FPL's shareholders:

Issue Number	Description	Amount in millions
15	Uncollectibles	$3.6
17a	Revenues not earned due to storm outages	51.4
17b	Backfill Work	.8
17c	Catch-up Work	7.8
17h	Vacation buy back	1.2
27	Pole Adjustment	5.9
28	Vegetation Management Adjustment	3.4
33	Corbett Transmission Line	12.0
	Total	$86.1

APPROVED

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?
Recommendation: The amount of reasonable and prudently incurred 2005 storm-related costs that should be recovered from customers is $728,510,020 (jurisdictional).

MODIFIED Modified to adjust the amount of reasonable and prudently incurred 2005 storm-related costs that should be recovered from customers to $ 735, 569, 138.

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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?
Recommendation: FPL has not shown that a $650 million replenishment of the storm damage reserve is appropriate. A $200 million replenishment will (1) reduce the incidental costs associated with securitization, (2) provide more critical review of FPL's storm charges, and (3) reduce customer bills associated with FPL's request to replenish the storm damage reserve.

APPROVED

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?
Recommendation: The amount of the storm damage reserve that should be placed in a fund is the amount, after any applicable taxes, of the replenishment amount credited to the storm damage reserve as determined in Issue 37. The use of the fund should be restricted to purposes consistent with Rule 25-6.0143, Florida Administrative Code, for Account No. 228.1, Accumulated Provision for Property Insurance. This treatment would be the same whether the replenishment is accomplished through either securitization or a surcharge.

APPROVED

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?
Recommendation: The issuance of storm recovery bonds for the recovery of reasonable and prudently incurred storm damage restoration costs and the replenishment of the storm damage reserve as proposed by FPL is not expected to result in lower overall costs to ratepayers. However, the issuance of storm recovery bonds is expected to mitigate rate impacts to ratepayers as compared with alternative methods of recovery of these costs and replenishment of the storm damage reserve.

APPROVED

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Issue 40: WITHDRAWN

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?
Recommendation: The unamortized balance of the adjusted 2004 storm costs should be added to any amounts to be securitized. This treatment is dependent on the Commission's decision to approve the issuance of storm recovery bonds.

APPROVED

Issue 42: Based on resolution of the preceding issues, what amount, if any, should the Commission authorize FPL to recover through securitization?
Recommendation: The amount to be approved for recovery would be determined by the amounts approved in Issue 3 for 2004 storm-related costs, Issue 36 for 2005 storm-related costs, and Issue 37 for the appropriate level of the storm damage reserve. Based on staff's recommendations in those issues, the amount to be recovered through securitization is $1,127,190,452 on a pre-tax basis, plus $11,425,000 in up-front bond issuance costs. The total after-tax amount is $703,801,734.

MODIFIED Modified to adjust the total after-tax amount to $708,137,799.

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?
Recommendation: No. However, if the Commission approves recovery other than through securitization as set forth in Issue 42, the amount to be approved for recovery would be determined by the amounts approved in Issue 3 for the 2004 storm-related costs, Issue 36 for the 2005 storm-related costs and Issue 37 for the appropriate level of the storm damage reserve. Based on the staff's recommendation in those issues, the amount to be recovered is $1,127,190,452 on a pre-tax basis.

MOOT

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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.

Recommendation: No, the Commission should not approve FPL's alternative request to implement a surcharge and subparts a. and b. are moot. However, if a surcharge is approved, then a. and b. need to be addressed and are discussed as follows:
a. The amount to be approved for recovery would be determined by the amounts approved in Issue 36 for 2005 storm-related costs and in Issue 37 for the appropriate level of the storm damage reserve. Based on staff's recommendation, the amount would be $928,510,020 on a pre-tax basis.
b. If the Commission approves an amount for recovery, the allocation to the rate classes should be made as proposed by FPL witness Morley and as discussed in Issue 80. The surcharge should be applied to bills rendered on or after June 15, 2006, for a period of three years, unless all approved costs are recovered sooner.

MOOT

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?
Recommendation: No adjustment is necessary for the deferred tax liability. However, the deferred tax debits related to the funded storm damage reserve should be removed for AFUDC and earnings surveillance purposes.

APPROVED

Issue 46: Is the recovery of income taxes a financing cost eligible for recovery under Section 366.8260, Florida Statutes?
Recommendation: Yes. The recovery of income taxes is a financing cost eligible for recovery under Section 366.8260, Florida Statutes.

APPROVED

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Issue 47: If recovery of the taxes assessed on the storm recovery charges is not securitized, should the tax charge be included in the irrevocable financing order?
Recommendation: Yes. The recovery of income taxes should be allowed and included in the irrevocable financing order.

APPROVED

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?
Recommendation: Yes. FPL in its role as servicer has control over any action that could cause an increase in the servicer fee. Therefore, the Commission should require the Company to indemnify ratepayers against an increase in the servicer fee in the event of the servicer's default due to negligence, misconduct, or termination for cause.

APPROVED

Issue 49: WITHDRAWN

WITHDRAWN

Issue 50: What is the appropriate up-front and ongoing fee for the role of servicer throughout the term of the bonds?
Recommendation: The appropriate up-front servicer set-up fee is $350,000. The appropriate ongoing servicer fee is 0.05 percent of the initial principal amount of the bonds. Based on the amount of storm recovery bonds FPL has proposed be issued, this fee would be $525,000 per year. These fees are necessary to ensure an "arms-length" transaction for bankruptcy law considerations.

APPROVED

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Issue 51: How much should FPL be permitted to recover from ratepayers for its role as servicer in this transaction?
Recommendation: FPL should be permitted to collect the servicer set-up and ongoing servicing fees that are necessary to establish an arms-length transaction for the purpose of creating an independent SPE as discussed in Issue 50. FPL should be allowed to recover the $350,000 servicer set-up fee it estimates would be necessary to adapt its existing systems to bill, collect, and process the storm charge and set up the reporting function. However, with respect to the ongoing servicing fee, FPL should be allowed to keep only its incremental costs for performing the servicing function. Because FPL has not justified the $525,000 annual fee it proposes to collect and because the activities appear to be extremely closely related to activities the Company already performs in the normal course of its operations, staff recommends the annual fee of 0.05 percent of the initial principal amount of the storm recovery bonds be used to increase the storm reserve available for recovery of future storm costs.

APPROVED

Issue 52: What is the appropriate up-front and ongoing fee for the role of administrator throughout the term of the bonds?
Recommendation: The appropriate up-front and ongoing fee for the role of administrator should be $125,000 per year. This fee is necessary to ensure an "arms-length" transaction for bankruptcy law considerations.

APPROVED

Issue 53: How much should FPL be permitted to recover from ratepayers for its role as administrator in this transaction?
Recommendation: FPL should be permitted to collect the administration fee necessary to establish an arms-length transaction for purposes of creating an independent SPE as discussed in Issue 52. However, FPL should be allowed to keep only its incremental costs for performing the administration function. Since FPL has not provided or supported any incremental costs of performing this function, the full amount of the proposed $125,000 annual administration fee should be used to increase the storm reserve available for recovery of future storm costs.

APPROVED

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Issue 54: STIPULATED: How frequently should FPL in its role as servicer be required to remit funds collected from ratepayers to the SPE?
Recommendation: As reflected in the Prehearing Order, the parties Stipulated to the following position on this issue: "FPL will remit funds deemed collected from customers to the SPE on a daily basis, pursuant to the terms of an agreement between FPL and the SPE. Any earnings on funds transferred will be used to reduce future charges." Staff recommends approval of this Stipulation.

APPROVED

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?
Recommendation: Any amounts remaining in the Collection Account and any additional storm recovery charges that have been incurred but not yet collected and deposited to the Collection Account after all storm recovery bonds have been retired should be credited to current consumers' bills in the same manner that the storm charges were collected. However, if it is not cost effective to credit the remaining amount, the residual amount could either be applied to the storm reserve or returned to customers through a credit to the capacity clause.

APPROVED

Issue 56: How should the Commission determine that the upfront bond issuance costs are appropriate?
Recommendation: It is not necessary for the Commission to determine that FPL's estimated upfront bond issuance costs are appropriate at this time. In accordance with Section 366.8260(2)(b)5., Florida Statutes, FPL is required to file for the Commission's review actual bond issuance costs within 120 days after the bond issuance. In its review, the Commission must determine if such costs resulted in the lowest overall costs that were reasonably consistent with market conditions at the time of the issuance and the terms of the financing order. If the Commission determines at that time that the estimated issuance costs included in the determination of the initial storm charge were overstated, the Commission should require FPL to increase the storm damage reserve by the amount of the difference in accordance with the statute.

APPROVED

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Issue 57: How should the Commission determine that the ongoing costs associated with the bonds are appropriate?
Recommendation: It is not necessary for the Commission to determine that FPL's estimated ongoing costs associated with the storm recovery bonds are appropriate at this time. In accordance with Section 366.8260(2)(b)5., Florida Statutes, FPL is required to file for the Commission's review supporting information on actual bond issuance costs within 120 days after the bond issuance. In its review, the Commission must review the actual issuance costs to determine if such costs resulted in the lowest overall costs that were reasonably consistent with market conditions at the time of issuance and the terms of the financing order. If the Commission determines at that time that the estimated costs included in the determination of the initial storm charge were overstated, the Commission should require FPL to increase the storm damage reserve by the amount of the difference in accordance with the statute.

APPROVED

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., Florida Statutes, reasonable and should it be approved?
Recommendation: No. The Commission should not predetermine that upfront bond issuance costs resulting from a competitive solicitation, or within a certain range of estimates, meets the statutory standard of Section 366.8260(2)(b)5., Florida Statutes. Accordingly, FPL's proposed process should not be approved.

APPROVED

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Issue 59: Is FPL's process for determining whether the ongoing costs satisfy the statutory standard of Section 366.8260(2)(b)5. reasonable and should it be approved?
Recommendation: No. FPL's proposed process for determining whether the estimated ongoing costs associated with the issuance of the storm recovery bonds satisfy the statutory standard is inconsistent with the express language of Section 366.8260(2)(b)5., Florida Statutes, and should not be approved.

APPROVED

Issue 60: If the issuance of storm recovery bonds is approved, should the bonds be sold through a negotiated or competitive sale?
Recommendation: It is premature for the Commission to make this decision at this time. Both methods for the sale of storm recovery bonds should be considered to determine the most cost-effective means of issuing the bonds based on prevailing market conditions near the time of issuance. However, based on the particular characteristics of these types of bonds and the method that has been used in previous transactions, both FPL and the Commission's financial advisor believe a negotiated sale will likely be preferable.

APPROVED

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?
Recommendation: The financing order should include ordering paragraphs, findings of fact, and conclusions of law that will give appropriate comfort to investors about the high quality of storm recovery bonds as a potential investment. Examples include:

1. A finding that the Commission anticipates stress case analyses will show that the broad nature of the State pledge under Section 366.8260(11), Florida Statutes, and the automatic true-up mechanism under Section 366.8260(2)(b)2.e. and 4., Florida Statutes, will serve to effectively eliminate for all practical purposes and circumstances all credit risk associated with the storm recovery bonds;
2. A finding and an ordering paragraph directing that the automatic true-up mechanism is to be applied at least semi-annually, as discussed in Issue 83;
3. A finding and an ordering paragraph that the automatic true-up mechanism will be implemented within 60 days after a filing by the servicer, as discussed in Issue 8;
4. A finding and conclusion of law that the broad nature of the State pledge under Section 366.8260(11), Florida Statutes, and the automatic true-up mechanism under Section 366.8260(2)(b)2.e. and 4., Florida Statutes, constitute a guarantee of regulatory action for the benefit of investors in storm recovery bonds;

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5. A conclusion of law that any interest rate swap counterparty is to be treated as a "financing party" for purposes of Section 366.8260(1)(g), Florida Statutes;

6. A conclusion of law that storm recovery property is not a receivable under Section 366.8260(5)(a)1., Florida Statutes;

7. An ordering paragraph directing that partial payments shall be allocated first to storm recovery charges, including past due storm recovery payments;

8. A conclusion of law that the Commission's obligation under the financing order relating to storm recovery bonds, including the specific actions the Commission guarantees to take, are direct, explicit, irrevocable, and unconditional upon the issuance of storm recovery bonds, and are legally enforceable against the Commission, a United States public sector entity; and

9. A conclusion of law and an ordering paragraph that the financing order is irrevocable under Section 366.8260(2)(b)4. and (11), Florida Statutes.

In addition, the financing order should require fully accountable certifications from the lead underwriter(s), FPL, and the Commission's financial advisor that the actual structure, marketing, and pricing of the storm recovery bonds in fact resulted in the lowest storm recovery charges consistent with then-prevailing market conditions and the terms of the financing order and other applicable law.

APPROVED

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

Recommendation: All transaction documents and subsequent amendments should be reviewed and approved by the Bond Team as discussed in Issue 74B before becoming operative. All legal opinions associated with the proposed storm recovery bond transaction should be submitted to the Commission automatically without requiring the Commission to specifically request the documents.

APPROVED

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

Recommendation: No, FPL's proposed staff pre-issuance review process is not reasonable as filed and should not be approved. For the reasons outlined in staff's May 8, 2006 memorandum, the pre-issuance review process discussed in Issue 74B should be approved.

APPROVED

(Continued from previous page)

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?
Recommendation: No. While it is reasonable to approve the general concept that the financing documents will be necessary elements of the proposed transaction, the specific terms, conditions, covenants, warranties, representations, and specific language contained in the documents will be impacted by the Commission's decisions in other issues and must be reviewed in consideration of the financing order approved by the Commission as discussed in Issue 74B.

APPROVED

Issue 65: Should the Issuance Advice Letter be approved in substantially the form proposed by FPL?
Recommendation: No. The draft issuance advice letter in the form proposed by FPL does not provide sufficient detail for the Commission to make an informed decision regarding the proposed storm recovery bond issuance.

APPROVED

Issue 66: Should the Initial True-up Letter be approved in substantially the form proposed by FPL?
Recommendation: No. While it is reasonable to approve the true-up mechanism proposed by FPL, if the Commission adopts staff's recommendation that the issuance advice letter be expanded to include the initial storm recovery charges, there should be no need for a separate initial true-up letter.

APPROVED

(Continued from previous page)

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?
Recommendation: The ratepayers should be effectively represented throughout the life cycle of the proposed transaction. The Commission can ensure the structure, marketing, and pricing of the storm recovery bonds resulted in the lowest possible burden on FPL's ratepayers consistent with prevailing market conditions and the terms of the financing order by participating in the transaction as discussed in Issue 74B.

APPROVED

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"?
Recommendation: As discussed in Issue 39, the proposed structure, expected pricing, and financing costs of the storm recovery bonds cannot be expected to result in lower overall costs to ratepayers as compared with alternative methods of recovery of reasonable and prudently incurred storm damage restoration costs and replenishment of the storm damage reserve. However, issuance of storm recovery bonds is reasonably expected to mitigate rate impacts to customers as compared with alternative methods of recovery. By adopting the processes recommended in Issues 61, 65, and 74B, the Commission can maximize the rate mitigation impact of securitization.

APPROVED

Issue 69: WITHDRAWN

WITHDRAWN

Issue 70: WITHDRAWN

WITHDRAWN

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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?
Recommendation: FPL and the Commission should work together in a collaborative process to allow for flexibility by the principal transaction parties (Bond Team) to ensure that the lowest overall costs consistent with prevailing market conditions and the terms of the financing order are achieved.

APPROVED

Issue 72: STIPULATED: 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?
Recommendation: As reflected in the Prehearing Order, FPL and staff agreed to the following position on this issue: "Yes." All Intervenors maintained "no position" on the issue but did not object to the Stipulation between staff and FPL. Staff recommends approval of this Stipulation. A regulatory asset should be established for the amount to replenish the Reserve if the Commission approves FPL's proposed financing order.

APPROVED

Issue 73: STIPULATED: 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?
Recommendation: As reflected in the Prehearing Order, FPL and staff agreed to the following position on this issue: "Yes." All Intervenors maintained "no position" on the issue but did not object to the Stipulation between staff and FPL. Staff recommends approval of this Stipulation. The Commission should 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.

APPROVED

Vote Sheet
May 15, 2006
Docket No. 060038-EI – Petition for issuance of a storm recovery financing order, by Florida Power & Light Company.

(Continued from previous page)

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?
Recommendation: No. The form of the financing order, including the findings of fact and conclusions of law, proposed by FPL should be revised to reflect resolution of all issues in this proceeding.

APPROVED

Issue 74A: 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?
Recommendation: The Commission staff should hold an informal meeting with the parties and their financial advisors during the week of May 22, 2006, to review and obtain input on the portions of the financing order relating to securitization. Any party who believes that the order as issued does not accurately and properly reflect the Commission's decisions has the right to request reconsideration within 5 days after issuance of the order.

APPROVED

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Issue 74B: If the Commission votes to issue a financing order, what post-financing order regulatory oversight is appropriate and how should that oversight be implemented?
Recommendation: The ratepayers should be effectively represented throughout the proposed transaction. The Commission, its staff, its outside counsel, and its financial advisor, along with FPL, FPL's financial advisor, and its counsel should work in a collaborative process to ensure the structuring, marketing, and pricing of the storm recovery bonds result in the lowest cost consistent with prevailing market conditions and the terms of the financing order. The Commission should be represented primarily by its staff, who should be advised by the Commission's financial advisor and outside counsel. Staff should periodically brief the Commissioners and the parties on the progress of the transaction. Issues that arise during the process that cannot be resolved collaboratively should be submitted in writing to a designated Commissioner for guidance. If any party objects to the designated Commissioner's proposed resolution, the matter should be submitted to the Commission for *de novo* consideration. The final structure of the transaction, including pricing, should be subject to review by the full Commission for the limited purpose of ensuring that all requirements of law and the financing order have been met. The Commission should specifically determine that the fees and expenses of its financial advisor and outside counsel in this post-financing order collaborative process are entitled to payment from the bond proceeds.

APPROVED Consistent with the discussions at the conference.

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?
Recommendation: Yes.

APPROVED

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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

Recommendation: No. FPL's primary justification for the issuance of storm recovery bonds for the recovery of reasonable and prudently incurred storm damage restoration costs is rate mitigation. Any additional surcharge on top of the 2004 storm charge would negate the benefit of rate shock mitigation to ratepayers avoided by the use of securitization.

APPROVED

This doesn't preclude FPL from filing a request for approval of interim surcharge if a delay occurs concerning the issuance of bonds.

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?

Recommendation: No adjustment is necessary. In Docket No. 041291-EI, concerning FPL's petition to recover 2004 storm damages through a surcharge, the Commission approved an adjustment to interest expense to recognize storm-related deferred taxes. The utility has made the adjustment by applying a net-of-tax rate.

APPROVED

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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?
Recommendation: If the Commission approves a recovery mechanism other than securitization, 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.

APPROVED

Issue 79: STIPULATED: Are the energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism appropriate?
Recommendation: As reflected in the Prehearing Order, FPL and staff agreed to the following position on this issue: "Yes. The energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism are appropriate." All Intervenors maintained "no position" on the issue but did not object to the Stipulation between staff and FPL. Staff recommends approval of this Stipulation.

APPROVED

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?
Recommendation: The jurisdictional costs approved by the Commission for recovery through securitization (Issue 42) should be allocated to the rate classes using the allocation percentages developed in FPL witness Morley's Direct Testimony, Exhibit No. RM-6, page 2 of 2 (EXH 59). These percentages are based on the amount of storm damage in each functional area (e.g., transmission, distribution, production, etc.) and then allocated by rate class based on the methodology used for each function in FPL's last filed cost-of-service study. Each rate class's cost responsibility should then be divided by its projected kWh sales for the period August 2006 through July 2007 (Issue 79) to calculate a cents-per-kWh Storm Bond Repayment Charge and Storm Bond Tax Charge.

APPROVED

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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?
Recommendation: Based on the amount proposed in FPL's petition, the appropriate recovery period is up to 12 years or until the storm recovery bonds and associated charges have been paid in full, depending on the issuance date of the bonds, maturity of the bonds, and market conditions at the time of the issuance. If the amount approved by the Commission for recovery through securitization is reduced based on Commission decisions on other issues, it may be possible to reduce the maximum maturity of the bonds (and thus the recovery period) and still have a levelized charge that is comparable or less than the current 2004 storm charge.

APPROVED

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?
Recommendation: Yes. FPL's proposed Storm Charge True-Up Mechanism is appropriate and consistent with Section 366.8260, Florida Statutes. According to the statute, the Commission has to approve the requested true-up or inform FPL of any mathematical errors in its calculation within 60 days. In its true-up filings with the Commission, FPL should also provide workpapers showing all inputs and calculations, including the calculation of the storm bond repayment charges and storm bond tax charges by rate class.

APPROVED

Issue 83: STIPULATED: How frequently should the Storm Charge True-up Mechanism be conducted?
Recommendation: As reflected in the Prehearing Order, FPL and staff agreed to the following position on this issue: "At least every six months." All Intervenors maintained "no position" on the issue but did not object to the Stipulation between staff and FPL. Staff recommends approval of this Stipulation.

APPROVED

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Issue 84: STIPULATED: If the Commission approves the securitization of unrecovered 2004 storm costs, on what date should the 2004 Storm Restoration Surcharge be terminated?
Recommendation: As reflected in the Prehearing Order, FPL and staff agreed to the following position on this issue: "The current Storm Restoration Surcharge should be terminated concurrent with the effective date of the proposed Storm Charge." All Intervenors maintained "no position" on the issue but did not object to the Stipulation between staff and FPL. Staff recommends approval of this Stipulation.

APPROVED

Issue 85: STIPULATED: If the Commission approves an amount to be securitized, on what date should the Storm Recovery Charge become effective?
Recommendation: As reflected in the Prehearing Order, FPL and staff agreed to the following position on this issue: "The Storm Charge and its components, the Storm Bond Repayment Charge and the Storm Bond Tax Charge, should be implemented on the first meter reading day after the issuance of the storm recovery bonds." All Intervenors maintained "no position" on the issue but did not object to the Stipulation between staff and FPL. Staff recommends approval of this Stipulation.

APPROVED

Issue 86: STIPULATED: Should the Storm Recovery Charge be recognized as a separate line item on the customers' bill?
Recommendation: As reflected in the Prehearing Order, the parties Stipulated to the following position on this issue: "Yes." Staff recommends approval of this Stipulation.

APPROVED

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Issue 87: STIPULATED: 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?
Recommendation: As reflected in the Prehearing Order, the parties Stipulated to the following position on this issue: "Yes." Staff recommends approval of this Stipulation.

APPROVED

Issue 88: Should this docket be closed?
Recommendation: This docket should remain open throughout the bond issuance process and through the completion of the Commission's post-issuance review of the actual costs of the bond issuance. Prior to implementing the initial storm charges by rate class, FPL should file tariff sheets to be administratively approved by staff within 3 business days.

APPROVED