

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Florida Power and Light Company's )  
Petition for Issuance of a Storm ) DOCKET NO. 060038-EI  
Recovery Financing Order ) FILED: APRIL 10, 2006  
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THE FLORIDA RETAIL FEDERATION'S PREHEARING STATEMENT

The Florida Retail Federation ("FRF"), pursuant to the Order Establishing Procedure in this case, hereby files its Prehearing Statement.

A. APPEARANCES:

ROBERT SCHEFFEL WRIGHT, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301, and

JOHN T. LAVIA, III, Young van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301.

On Behalf of the Florida Retail Federation.

B. WITNESSES: None.

C. EXHIBITS: The Florida Retail Federation does not intend to present any exhibits through its own witnesses, but reserves its rights to introduce appropriate exhibits, including deposition transcripts, through the witnesses of other parties to this proceeding.

D. STATEMENT OF BASIC POSITION:

The damages caused by Hurricane Wilma to FPL's transmission and distribution systems, and the resulting losses sustained by FPL's customers, were exacerbated by prior inadequate - and imprudent - inspection and maintenance by FPL. Specifically, the failures of FPL's Corbett-Conservation 500 kV lines and its Alva-Corbett 230 kV line appear to have resulted from inadequate maintenance and construction management practices, especially in light of the fact that FPL knew as early as 1998 that there were

loose and missing cross-brace bolts on the transmission towers of the Corbett-Conservation line.

Additionally, FPL had suspended its pole inspection program as a cost-cutting measure in 1991 and only reinstated a pole inspection program in 1999. Of FPL's asserted components of its pole inspection program, only the Osmose program is an effective inspection program, and this program was initiated on a limited basis in 1999 and has since been reduced in scope. FPL's pole inspection practices have been, overall, insufficient to identify and replace deteriorated poles, with the result that many pole failures during Hurricane Wilma were due to deterioration. Additionally, FPL's inadequate vegetation management practices contributed to pole failures. FPL is not entitled to recover the preventable costs of pole failures, nor is FPL entitled to recover repair costs associated with conductors that fell as a result of such pole failures. Further, because a significant number of FPL's pole failures were due to inadequate and imprudent maintenance, inspection, and vegetation management activities, the Commission should penalize FPL as allowed by Chapter 350 for these failures, which resulted in additional outages and losses to FPL's customers.

Only those costs that are directly related to restoring facilities damaged by storms should be included as storm restoration costs recoverable from FPL's customers. For example, lawsuit claims and image-enhancing advertising costs should be disallowed, as should claims for unrealized contingencies. Additionally, proceeds received from other companies (e.g., BellSouth) for storm repair services provided by FPL should be used to offset costs charged to FPL's customers.

The Commission must not allow FPL to include costs that are for cost components that are already included in base rates in its storm restoration costs. Such costs include normal employee salaries, normal tree-trimming costs, normal vehicle costs, and similar cost components.

A storm reserve of \$150 million is adequate, reasonable, and prudent.

**E. STATEMENT OF ISSUES AND POSITIONS:**

The following issues and positions are based upon the draft list of issues that the existing parties to this docket have developed, as compiled and distributed by Staff on April 3, 2006.

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?

FRF: No. Agree with OPC as to appropriate adjustments.

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

FRF: Yes. Agree with OPC as to appropriate adjustments.

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?

FRF: Yes. Agree with OPC that the 2004 reserve deficiency should be reduced by \$51,396,811.

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

FRF: No position at this time as to accuracy of accounting or as to the amount of any adjustment. Agree with OPC that interest should be reduced to reflect the reduction to 2004 storm costs included in the reserve.

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?

FRF: Order No. 05-0937 is non-binding precedent. Because all ratemaking is inherently prospective and

legislative, as an exercise of the police power, the Commission is free to make any reasonable decision supported by competent substantial evidence of record with regard to the ratemaking issues (including cost allocation and prudency issues) in this case.

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

**FRF:** The appropriate methodology is the incremental cost methodology advocated by the witnesses for the Citizens of the State of Florida.

**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?

**FRF:** Yes. Agree with OPC as to the amounts to be adjusted for such items, including condenser tube repairs, hydrolasing, and loan of FPL personnel and equipment to other utilities.

**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?

**FRF:** No. Agree with the \$24,575,514 in adjustments calculated and advocated by OPC's witnesses.

**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?

**FRF:** No. Agree with OPC that FPL's 2005 storm costs should

be reduced by \$768,000 to remove exempt employees' overtime incentives.

**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?

**FRF:** Agree with OPC that no adjustments appear to be necessary in connection with this issue.

**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?

**FRF:** No. Agree with OPC that FPL's claimed tree-trimming costs should be reduced by \$1.1 million.

**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?

**FRF:** No. Agree with OPC that FPL's claimed costs should be reduced by \$5,738,000 to ensure that vehicle costs are not inappropriately recovered through both base rates and through storm surcharges.

**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?

**FRF:** No. Agree with OPC that FPL's claimed costs should be reduced by \$520,264.

**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?

**FRF:** FPL has inappropriately charged advertising and public relations costs to its 2005 storm costs. Agree with OPC that \$2,528,196 in advertising and communications costs, and \$144,068 for public relations costs, should be removed from FPL's claimed 2005 storm costs.

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

**FRF:** No. Agree with OPC that FPL's claimed 2005 storm costs should be reduced by \$3,582,000 to remove uncollectible expense included in FPL's storm cost recovery request.

**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?

**FRF:** No. Agree with OPC that an additional \$2,964,000 adjustment to 2005 storm recovery costs charged to the storm reserve is necessary to reflect the higher proportion of storm costs that are presently expected to be capital-related.

**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;

**FRF:** No. Only those costs that are directly related to restoring facilities should be included in allowable storm restoration costs and recovered from ratepayers. The PSC should reject this effort by FPL to shift additional business risk - substantively, the risk of lost revenues - onto its customers.

- 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);

FRF: No. Only those costs that are directly related to restoring storm-damaged facilities should be included in allowable storm restoration costs and recovered from FPL's customers.

- 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);

FRF: No. Only those costs that are directly related to restoring storm-damaged facilities should be included in allowable storm restoration costs and recovered from FPL's customers.

- d. Uncollectible accounts receivable write-offs directly related to the storms;

FRF: No. Only those costs that are directly related to restoring storm-damaged facilities should be included in allowable storm restoration costs and recovered from FPL's customers. FPL's claimed storm costs should be reduced by \$3,582,000.

- 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;

FRF: No. Only those costs that are directly related to restoring storm-damaged facilities should be included in allowable storm restoration costs and recovered from FPL's customers.

- f. Costs that would have otherwise been charged to clauses;

FRF: Agree with OPC.

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

FRF: Agree with OPC.



h. (NEW) Vacation Buy-Backs; and

**FRF:** Agree with OPC that "vacation buy-backs" are a result of FPL's vacation policy and not a direct result of storm restoration activities. Such amounts should not be charged to the storm reserve, nor should they be allowed to offset any adjustments made as a result of the incremental cost approach.

i. Nuclear Payroll Expected to be Recovered Through Insurance

**FRF:** Agree with OPC that this offset proposed by FPL is inappropriate.

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

**FRF:** No.

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

**FRF:** No. Lawsuit settlement charges are not directly related to storm recovery efforts or for restoring service to customers, and such costs, which are already considered in determining FPL's base rates, should not be included in allowable costs in this docket. This is another inappropriate effort by FPL to shift as much risk as possible onto its customers. FPL' claim for \$2,849,571 in such costs as 2005 storm costs should be disallowed.

**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?

**FRF:** No. Agree with OPC that \$26,253,351 of contingencies remaining at the end of February 2006 should be removed from FPL's 2005 storm cost estimates.



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

**FRF:** Yes. Agree with OPC that FPL should be required to true up the actual costs incurred and continue to increase its contingency estimates. Further agree with OPC that a cut-off date of December 31, 2006 should be established for charging 2005 storm restoration costs to the reserve.

**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?

**FRF:** No. Agree with OPC that a minimum of \$7,923,288 should be removed from FPL's claimed 2005 storm costs, and that FPL should be required to true up final costs to ensure that billings to outside parties for pole repair and replacement costs incurred by FPL are based on actual costs, and that they are appropriately credited to the benefit of FPL customers.

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

**FRF:** Agree with OPC that no further adjustments relative to this issue appear to be necessary.

**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?

**FRF:** Yes. Agree with OPC as to additional adjustments for employee assistance costs and repair costs under warranty.

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?

FRF: Fall-out issue.

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

FRF: Agree with OPC that only the costs for projects that have been identified in this docket and for which physical construction has begun on or before December 31, 2006 should be allowed as charges to the storm reserve for 2005 storms.

#### 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?

FRF: No. FPL's inspection activities with respect to the deterioration of wood distribution poles were inadequate. Agree with OPC as to amounts of claimed repair costs that should be disallowed. Additionally, because FPL's activities were inadequate due to FPL's intentional cost-cutting efforts, they were imprudent and FPL should be penalized pursuant to Chapter 350 for the resulting failures, which resulted in excessive outages and losses being sustained by FPL's customers.

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?

**FRF:** No. FPL's pre-storm vegetation management activities were inadequate. Agree with OPC as to amounts of claimed repair costs that should be disallowed. Additionally, because FPL's activities were inadequate due to FPL's intentional cost-cutting efforts, they were imprudent and FPL should be penalized pursuant to Chapter 350 for the resulting failures, which resulted in excessive outages and losses being sustained by FPL's customers.

**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?

**FRF:** No. In addition to the inadequate wood distribution pole maintenance activities discussed under Issue 27 above, FPL failed to adequately maintain its transmission structures, and the Commission should disallow (from recovery through storm surcharges or any other mechanism) the extra costs that FPL incurred to repair or replace transmission structures that were damaged due to FPL's inadequate and deficient efforts.

**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?

**FRF:** No. FPL's inspection activities with respect to the deterioration of wood distribution poles were inadequate. Agree with OPC as to amounts of claimed repair costs that should be disallowed. Additionally, because FPL's activities were inadequate due to FPL's intentional cost-cutting efforts, they were imprudent and FPL should be penalized pursuant to Chapter 350 for the resulting failures, which in turn resulted in excessive outages and losses being sustained by FPL's customers. The date through which such penalties should be imposed is the day before Wilma struck South Florida, October 23, 2005.

**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?

**FRF:** No. FPL's pre-storm vegetation management activities were inadequate. Agree with OPC as to amounts of claimed repair costs that should be disallowed. Additionally, because FPL's activities were inadequate due to FPL's intentional cost-cutting efforts, they were imprudent and FPL should be penalized pursuant to Chapter 350 for the resulting failures, which in turn resulted in excessive outages and losses being sustained by FPL's customers. The date through which such penalties should be imposed is the day before Wilma struck South Florida, October 23, 2005.

**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?

**FRF:** No. In addition to the inadequate wood distribution pole maintenance activities discussed under Issue 27 above, FPL failed to adequately maintain its transmission structures, and the Commission should disallow (from recovery through storm surcharges or any other mechanism) the extra costs that FPL incurred to repair or replace transmission structures that were damaged due to FPL's inadequate and deficient efforts.

FRF: Agree with OPC that \$10,411,000 should be removed from both the total projected storm restoration costs and from the capital cost offset, and that the Commission's final order in this case should state that these costs are being disallowed and should not be included in plant in service.

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?

FRF: Agree with OPC that FPL should only be allowed to accrue and collect interest on the actual amount of reasonable and prudent storm costs, net of any penalties or other adjustments, as determined by the Commission in this proceeding, and that interest accrual should begin in November 2005 and cease as of the time that the first bonds are issued (assuming securitization).

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?

FRF: No position at this time, pending further legal analysis.

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?

FRF: Tentatively agree with OPC that the maximum amount of allowable 2005 storm costs is \$701,916,139 on a jurisdictional basis, pending other adjustments.

#### 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?

FRF: Agree with OPC that the appropriate level of funding for FPL's storm reserve is \$150 million.

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?

FRF: Agree with OPC that once FPL's storm reserve attains a positive balance, the reserve should continue to be held in a funded account with interest accruing to the benefit of FPL's customers.

### 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?

FRF: No position at this time on the specific question posed by this issue, pending further analysis of evidence produced at hearing. Agree that if securitization is approved by the PSC, then the "best practices" advocated by the PSC Staff's witness should be adopted and implemented.

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?

FRF: No position at this time pending further legal analysis.

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?

FRF: Tentative - No position.

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

FRF: Based on resolution of the preceding issues, FPL's requested storm-related costs of \$1,690,160,000 should be reduced by at least \$615,842,431, and further reduced to reflect any penalties or other adjustments determined to be appropriate by the Commission.

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?

FRF: Tentative - No position. This issue will necessarily be determined by the Commission's decisions as to FPL's allowable costs and as to whether to approve securitization in this proceeding.

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

FRF: Tentative - No position.

b. The cost allocation to the rate classes?

FRF: Tentative - No position.



**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?

**FRF:** Agree with OPC.

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

**FRF:** No position at this time pending further legal analysis.

**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?

**FRF:** No position at this time pending further legal analysis.

**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?

**FRF:** Yes.

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

**FRF:** Agree with OPC.

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

**FRF:** Agree with OPC.

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

FRF: 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?

FRF: Agree with OPC.

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

FRF: Agree with OPC.

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

FRF: Agree with OPC.

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?

FRF: Agree with OPC.

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

- FRF:** If the Commission determines to approve securitization, then the Commission should adopt the "best practices" standards applicable to reviewing and approving issuance costs.
- Issue 57:** How should the Commission determine that the on-going costs associated with the bonds are appropriate?
- FRF:** If the Commission determines to approve securitization, then the Commission should adopt the "best practices" standards applicable to reviewing and approving ongoing costs associated with the bonds.
- 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?
- FRF:** No. Because the process proposed by FPL in its filings does not provide for the active participation of the Commission, FPL's process does not afford adequate, independent protection for its customers with regard to up-front costs, issuance costs, ongoing costs, and interest rates. Accordingly, FPL's proposed process should not be approved.
- 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?
- FRF:** No. Because the process proposed by FPL in its filings does not provide for the active participation of the Commission, FPL's process does not afford adequate, independent protection for its customers with regard to up-front costs, issuance costs, ongoing costs, and interest rates. Accordingly, FPL's proposed process should not be approved.
- Issue 60:** If the issuance of storm-recovery bonds is approved, should the bonds be sold through a negotiated or

competitive sale?

FRF: No position at this time pending further analysis and evaluation of evidence produced at hearing. The sale method that produces the lowest overall cost based on real-time market conditions should be the method that is used to determine allowable costs.

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?

FRF: No position at this time pending evaluation of evidence produced at hearing.

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

FRF: Yes.

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

FRF: No. Because the process proposed by FPL in its filings does not provide for the active participation of the Commission, FPL's process does not afford adequate protection for its customers with regard to up-front costs, issuance costs, ongoing costs, and interest rates. Accordingly, FPL's proposed process should not be approved.

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?

FRF: No position at this time, pending evaluation of testimony and evidence produced at hearing.

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

FRF: No position at this time.

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

FRF: 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?

FRF: If the Commission determines to approve securitization, then the Commission should adopt the "best practices" standard.

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?

FRF: No position at this time. The FRF is still evaluating this issue, which includes consideration of the meaning of "lower overall costs" and "significantly mitigate." The ultimate issue, which is whether the Commission should approve securitization, in turn depends on these evaluations.

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?

FRF: Tentative - The Commission should only approve the use of such floating rate securities and swaps if their use is demonstrated to provide customer savings.

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

FRF: No position at this time pending review of testimony and other evidence at hearing.

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?

FRF: Agree with OPC. Additionally, to the extent possible, the Commission should ensure that any post-approval exercise of flexibility is demonstrated to provide real, measurable benefits to customers, and that FPL's customers are protected from any adverse effects of FPL's decision pursuant to allowed flexibility.

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?

FRF: Yes.

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?

FRF: Yes.

**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?

**FRF:** No. Agree with OPC that, assuming that the Commission approves securitization such that a financing order is needed, the financing order needs to reflect the Commission's decisions in this proceeding, including findings of fact and conclusions of law.

**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?

**FRF:** 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?

**FRF:** FPL should not be allowed to implement an interim rate for 2005 storm costs if the bond issuance is delayed. If the initial bond issuance is delayed beyond the time when all actual 2004 storm costs, as adjusted by the Commission in this proceeding, have been collected, then FPL should be allowed to continue collecting the previously approved 2004 rate, as adjusted, to recover all actual, reasonable and prudent 2005 storm costs approved in this docket by the Commission, net of any penalties and other adjustments made by the Commission, have been collected or until the first bond is issued.



b. The calculation of the surcharge?

FRF: See FRF position above.

c. The cost allocation to the rate classes? and

FRF: No position.

d. The surcharge's termination date?

FRF: See FRF position above.

#### **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?

FRF: Yes. Agree with OPC.

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?

FRF: 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?

FRF: No position at this time pending further analysis.

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?

FRF: No position.

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?

FRF: No position at this time pending further consideration and evaluation of the rate impacts over different recovery periods.

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?

FRF: No position at this time pending further analysis, particularly analysis of the legal question relative to consistency with Section 366.8260.

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

FRF: Agree with OPC.

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

FRF: Agree with OPC.

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

FRF: No position at this time.

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

FRF: Yes.

#### 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?

FRF: Yes.

Issue 88: Should this docket be closed?

FRF: No.

#### F. STIPULATED ISSUES

The Florida Retail Federation has not stipulated to any issues other than Issue No. 87.

#### G. PENDING MOTIONS

The Florida Retail Federation has no pending motions requiring the attention of the Prehearing Officer.

#### H. PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

The Florida Retail Federation has no pending claims or requests for confidential treatment of its information.

I. NOTICE OF INTENT TO USE CONFIDENTIAL INFORMATION

As of the filing of this Prehearing Statement, the FRF does not intend to use confidential documents at hearing.

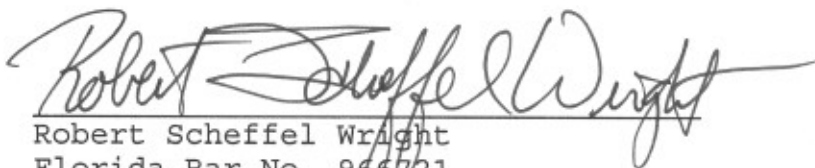
J. OBJECTIONS TO QUALIFICATIONS OF WITNESSES

As of the time of filing its prehearing statement, the Florida Retail Federation does not expect to challenge the qualifications of any witness.

K. REQUIREMENTS OF THE ORDER ESTABLISHING PROCEDURE

The Florida Retail Federation is not aware of any requirements of the Order Establishing Procedure with which it cannot comply, and believes that it has complied with all applicable requirements of that Order.

Respectfully submitted this 10th day of April, 2006.



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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the Florida Retail Federation's Prehearing Statement has been furnished by electronic mail and U.S. Mail this 10th day of April, 2006, to the following:

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