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Timolyn Henry*****1

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From: Elizabeth_Carrero@fpl.com
Sent: Monday, March 28, 2005 4:58 PM
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Subject: Electronic Filing for Docket No. 041291-EI/ FPL's Prehearing Statement
Attachments: FPL Prehearing Statement.3.28.05.doc



FPL Prehearing
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Electronic Filing

a. Person responsible for this electronic filing:

Natalie F. Smith, Attorney
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b. Docket No. 041291-EI

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.

c. Document being filed on behalf of Florida Power & Light Company.

d. There are a total of 18 pages.

e. The document attached for electronic filing is Florida Power & Light Company's Prehearing Statement

(See attached file: FPL Prehearing Statement.3.28.05.doc)

Thank you for your attention and cooperation to this request.

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company.) Docket No. 041291-EI)
)
)
) Filed: March 28, 2005

FLORIDA POWER & LIGHT COMPANY'S PREHEARING STATEMENT

Florida Power & Light Company ("FPL" or the "Company"), pursuant to Order No. PSC-04-1150-PCO-EI, files with the Florida Public Service Commission (the "PSC" or the "Commission"), its Prehearing Statement in connection with its petition for authority to recover prudently incurred storm restoration costs related to the 2004 storm season that exceed the storm reserve balance, and states:

I. FPL WITNESSES

Witnesses

Linda R. Whalin
(Direct)

Subject Matter

Provides an overview of FPL's emergency preparedness plans and processes; discusses how these plans were initiated and executed during the 2004 hurricane season; describes the extent of the 2004 hurricanes and the resulting impact and damage to FPL's distribution facilities; discusses the factors contributing to FPL's overall successful performance in safely restoring service to the greatest number of customers in the least amount of time.

K. Michael Davis
(Direct, Supplemental Direct, Rebuttal)

Discusses FPL's accounting treatment for the storm damages in the Storm Damage Reserve; discusses the amount charged to the storm damage reserve and what FPL expected the reserve deficiency to be as of December 31, 2004; discusses how FPL's treatment is consistent with Commission rules, Order No. PSC-95-0264-FOF-EI, issued February 27, 1995 in Docket No.

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930405-EI and the terms and conditions of the settlement agreement approved in Order No. PSC-02-0501-AS-EI, issued April 11, 2002 in Docket No. 001148-EI; discusses the appropriate mechanism and the appropriate time frame for recovery of the Storm Reserve Deficit; (Supplemental Direct) updates the estimate of storm damage costs; (Rebuttal) rebuts Office of Public Counsel (“OPC”) witness Michael J. Majoros, Jr.’s assertion that the Commission never approved accounting standards for the Storm Damage Reserve; refutes Mr. Majoros’ implication that FPL may be “double billing” or making money on storm events as untrue; rebuts Mr. Majoros’ characterization of removal costs and certain storm restoration activities; argues that Mr. Majoros has provided no reason to deny the Company recovery of storm restoration costs.

Rosemary Morley
(Direct, Supplemental Direct)

Outlines FPL’s proposed Storm Restoration Surcharge tariff for recovering the storm-related revenue requirements; describes how the storm restoration surcharge factors by rate class are developed; discusses the true-up process for preventing any over- or under-recovery of the Storm Reserve Deficit; (Supplemental Direct) submits a revised proposed Storm Restoration Surcharge tariff to reflect continuation of the proposed Storm Restoration Surcharge, at the existing level, for an additional twelve months beyond the twenty-four months originally proposed, or for such shorter period as is necessary to recover the Storm Reserve Deficit.

Geisha J. Williams
(Rebuttal)

Rebuts assertions made by OPC witness Mr. Majoros that expenses for projects identified by FPL in response to OPC’s request for production of documents No. 19 are being inappropriately charged to the Storm Damage Reserve; refutes Mr.

Majoros' speculation that facility replacements may not be a result of hurricane damage, but instead "... are because the facilities are old and worn out."

William E. Avera
(Rebuttal)

Refutes OPC witness Mr. James Rothschild's assertions regarding the impact of OPC's interpretation of the Revenue Sharing Agreement arising from the stipulation in Docket No. 001148-EI on FPL's ability to earn a fair rate of return on equity ("ROE") and its implications for FPL's ongoing ability to attract capital; argues that the interpretation of the Revenue Sharing Agreement assumed by Mr. Rothschild is inconsistent with sound regulatory policy and the expectations of the investment community; demonstrates that Mr. Rothschild has provided no meaningful support for his conclusion that a 10 percent ROE is "conservatively high," with other objective benchmarks confirming the inadequacy of this threshold return; argues that OPC's recommendation to effectively disallow reasonable and necessary expenses would send an alarming signal to investors and would have a negative impact on FPL's financial flexibility and the cost of capital.

Moray P. Dewhurst
(Rebuttal)

Refutes OPC witness Mr. Rothschild's reliance on OPC's purported interpretation of the Stipulation and Settlement that was executed by all parties in this proceeding in Docket No. 001148-EI and approved by the Commission in Order No. PSC-02-0501-AS-EI, issued April 11, 2002; explains why Mr. Rothschild's and OPC's positions reflect very short-sighted objectives that are inconsistent with Commission precedent and established public policy and would be detrimental to the interest of both state and local government and, ultimately, Floridians; explains why the retroactive policy change in the method of accounting for storm costs recommended by Mr.

Majoros would produce undesirable results,
for both investors and customers.

II. EXHIBITS

Exhibit	Description	Sponsoring Witness
LRW-1	Characterization of Hurricanes and Timeline	Linda R. Whalin
LRW-2	Peak External and FPL Personnel Resources	Linda R. Whalin
LRW-3	Percent of Customers Restored by Day	Linda R. Whalin
LRW-4	FPL vs. DVP, Percent of Customers Restored by Day	Linda R. Whalin
KMD-1 Revised	Hurricane Restoration Costs by Storm and Cost Category	K. Michael Davis
KMD-2	FPL Storm Cost Estimate Combined for Charley, Frances, and Jeanne	K. Michael Davis
KMD-3	Transmission and Distribution Insurance Replacement, Florida Power & Light Company October 1, 1993 Study – Docket No. 930405-EI	K. Michael Davis
KMD-4	Commission Order No. PSC-95-0264-FOF-EI issued February 27, 1995 - Notice of Proposed Agency Action Order Approving Storm Damage Study and Adjustments to Self Insurance Mechanism, Docket 930405-EI	K. Michael Davis
KMD-5	Florida Power & Light Company Response to Twomeys First Set of Interrogatories, Interrogatory No. 41 - Description of Company's computation of lost revenues	K. Michael Davis

RM-1	Storm Restoration Surcharge Computation (Derivation of the Rate Class Charges)	Rosemary Morley
RM-2 Revised	Original Sheet No. 8.033, Storm Restoration Surcharge	Rosemary Morley
GJW-1	Projects>\$100,000 Not Completed as of 12/31/04	Geisha J. Williams
GJW-2	FPL Hurricane Assessment Operating Committee, January 25, 2005, Davies Consulting Inc.	Geisha J. Williams
WEA-1	Qualifications of William E. Avera	William E. Avera
MPD-1	Stipulation and Settlement, Docket No. 001148-EI	Moray P. Dewhurst

In addition to the above pre-filed exhibits, FPL reserves the right to utilize any exhibit introduced by any other party. FPL additionally reserves the right to introduce any additional exhibit necessary for rebuttal, cross-examination or impeachment at the final hearing.

III. STATEMENT OF BASIC POSITION

As a result of the unprecedented storm season of 2004, FPL undertook reasonable, necessary, and prudent measures in responding to the devastating impacts of the most active hurricane season on record in the State of Florida, safely and rapidly restoring service to the more than 5.35 million FPL customers who lost power due to the impact of one or more of the three major hurricanes that struck FPL's service territory within the short span of six weeks. FPL's efforts and its approach to restoration were consistent with the overarching public policy favoring prompt and safe restoration of electric service, consistent with the unwavering and oft-repeated expectations of state and local government, and consistent with the regulatory framework instituted by the Florida Public Service Commission following Hurricane Andrew.

Despite the punishing circumstances and monumental challenges presented by three back-to-back hurricanes, as a result of FPL's solid foundation of hurricane preparedness, within three days following each of the three storms the Company was successful in restoring power to more than 75% of the customers who had lost power. FPL's performance compares favorably with that of Dominion Virginia Power following Hurricane Isabel. FPL's performance also has been reviewed by an independent consultant, Davies Consulting, Inc., ("DCI"), which concluded that FPL met or exceeded standard industry practices in virtually every facet of the restoration, particularly in the areas of infrastructure performance, crew and logistics mobilization, restoration planning and implementation, and FPL's ability to restore a large percentage of customers within the first few days. In DCI's opinion, no other U.S. utility could have addressed

the restoration effort in a six-week period as successfully as FPL did. The receipt earlier this year of the Edison Electric Institute (EEI) award for emergency response (our third in the past four years) provided further validation of FPL's recognized industry-leading expertise.

To achieve such results under extraordinarily difficult circumstances required extraordinary measures on the part of FPL. In responding to Hurricane Charley, FPL mobilized a peak work force of more than 13,500 individuals in the field performing repairs and reconstruction or directly supporting those tasks. This was comprised of 7,500 FPL employees and local contractors, and 6,000 external personnel. Efforts in responding to Hurricane Frances and Jeanne involved similar massive deployments of personnel: for Frances, 8,700 FPL employees and local contractors, and 8,000 external personnel for a peak work force of 16,700; and for Jeanne more than 16,500 personnel, including 8,600 FPL employees and local contractors, and 7,900 external personnel. The costs associated with these efforts were significant. The Company estimates total storm damages of \$999 million. The insurance reimbursement estimate is \$109 million. Thus, the total amount charged to the reserve is \$890 million. The \$890 million (system) storm damage cost, net of the storm reserve positive balance of \$354 million at December 31, 2004, results in a deficiency of \$536 million on a total system basis. The jurisdictional portion of the deficiency is approximately \$533 million. FPL seeks to recover the jurisdictional deficit through a special assessment or surcharge. The surcharge would remain in place for three years, or for such shorter period as may be sufficient to recover the deficit. In addition, FPL has agreed to limit recovery of storm restoration costs through the proposed surcharge to the amount by which the updated estimate of \$890 million (\$886 million jurisdictional) exceeds the amount of the Storm Damage Reserve. Thus, if the actual amount incurred exceeds \$890 million, FPL would not seek to recover those costs through the proposed surcharge mechanism. If the final costs are less than \$890 million (\$886 million jurisdictional), the mechanism requested by FPL ensures that the surcharge ends as soon as the Storm Damage Reserve Deficit is recovered, so that no more than the actual costs would be recovered. FPL's request is consistent with Commission policy and the regulatory framework established subsequent to Hurricane Andrew.

Prior to Hurricane Andrew, FPL had a small storm damage reserve and maintained commercial insurance coverage for its Transmission and Distribution ("T&D") system in the amount of \$350 million per occurrence. The costs of carrying this insurance, a bona fide cost of doing business, were recovered through base rates. The cost of storm restoration, therefore, was borne by customers through the cost of insurance. Following Andrew, commercial insurers effectively withdrew from the utility windstorm coverage market. In the absence of commercial coverage, FPL, with the Commission's approval, instituted an approach that relied more heavily on the Storm Damage Reserve, the existence of which pre-dated Andrew. In 1993, FPL initially proposed an automatic revolving storm clause, but this was rejected by the Commission. Instead, the Commission endorsed an approach which consists of three parts: (1) an annual storm accrual, adjusted over time as circumstances change; (2) a funded Storm Damage Reserve adequate to accommodate most but not all storm years; and (3) a provision for utilities to seek recovery of costs that go beyond the Storm Damage Reserve. These three parts act together to allow FPL over time to recover the full costs of storm restoration, while at the same time balancing potentially competing customer interests: as small an ongoing impact on customer bills as possible; minimal volatility of "rate shock" in customer bills because the reserve is

insufficient; and intergenerational equity. To accomplish this balance requires periodic adjustment in the main components of the framework – the annual accrual and the target reserve balance – in light of changing storm experience and the growth of FPL’s T&D network.

Over the years, the Commission periodically has reviewed the levels of the target reserve amount and the annual accrual and, in some instances, has increased those amounts. In 1998, the Commission explicitly considered the adequacy of the \$20.3 million annual accrual then (and still) in effect as well as the target amount of the storm damage reserve. The Commission concluded that no changes in those amounts were needed at that time. However, consistent with the Post-Andrew regulatory framework, the Commission acknowledged that:

“[i]n the event FPL experiences catastrophic losses, it is not unreasonable or unanticipated that the reserve could reach a negative balance.... The December 1997 balance of \$251.3 million, is, we believe, sufficient to protect against most emergencies. In cases of catastrophic loss, FPL continues to be able to petition the Commission for emergency relief, as reflected in Order No. PSC-95-1588-FOF.”

In re: Petition for authority to increase annual storm fund accrual commencing January 1, 1997 to \$35 million by Florida Power & Light Company, Docket No. 971237-EI, Order No. PSC-98-0953-FOF-EI, at 3 (issued July 14, 1998). The Commission also affirmed that “the costs of storm damage incurred over and above the balance in the reserve and the costs of the use of the lines of credit would still have to be recovered from ratepayers.” *Id.* (emphasis added). The Commission’s approach is entirely consistent with the observation that the costs of restoring electric service, fundamentally, are a cost of providing electric service in Florida, a region susceptible to tropical storms and hurricanes, and therefore are legitimately recoverable from customers under basic principles of regulation. They are not foreseeable “business risks.” FPL does not now (and has not since Andrew) recover through base rates the full expected costs of restoring service after storms. Nor does FPL recover through base rates the amounts that would be necessary to compensate for the risk capital that would need to be supplied were investors to assume an insurance function. That is because the Commission has determined that the current, alternate regulatory framework is a less costly means of attaining the same end. But an integral part of that framework is the ability of the utility to recover prudently incurred costs in excess of whatever Storm Damage Reserve balance happens to exist at the precise moment that hurricanes strike.

In 1995, the Commission approved standards for charging costs to the Storm Damage Reserve. Docket No. 930405-EI, Order No. PSC-95-0264-FOF-EI (issued February 27, 1995). The Company has accounted for storm restoration costs in compliance with these standards since they were approved in 1995. The costs charged to the Storm Damage Reserve were booked consistent with those standards, a fact confirmed in this proceeding by the Commission’s Audit Staff. The approved standards continue to be appropriate for the reasons considered in Docket No. 930405-EI. OPC, FIPUG, and others were parties to that proceeding, but now seek to raise in this proceeding the same types of arguments that were considered in Docket No. 930405-EI. The passage of time has not cured the flaws in OPC’s position. Moreover, even if OPC’s guidelines were to be applied, in several cases they would not result in any changes to the

amounts sought for recovery in this proceeding. Finally, even if the guidelines were deemed to have merit, changes should only be made prospectively. Storm restoration costs were booked in accordance with the approved standards and were included in the Storm Damage Reserve deficit that was reported as an asset in the Company's 2004 financial statements. Changing the standards retroactively would undermine the basis for financial reporting with potentially serious consequences for the capital market's perception of regulatory risk.

FPL's request is consistent with, and expressly contemplated by, the Stipulation and Settlement that was executed by all parties to this proceeding, including OPC, in Docket No. 001148-EI, and approved by the Commission in Order No. PSC-02-0501-AS-EI, issued April 11, 2002, ("2002 Stipulation and Settlement" or "Settlement Agreement"). Pursuant to the Settlement Agreement, OPC and its constituents received a base rate reduction of \$250 million, and an opportunity for refunds should FPL's revenues exceed certain threshold amounts. As a result of these concessions, FPL's customers will have realized approximately \$1 billion in savings and refunds through calendar year 2005, the end of the Stipulation and Settlement. But, in exchange for these benefits, FPL required certain protections. First, it was agreed that "the revenue mechanism ... [was to] be the appropriate and exclusive mechanism to address earnings levels." (emphasis added.) Second, FPL sought a general level of protection by reserving the right to petition the Commission for rate relief due to earnings falling below 10%. Third, FPL needed specific assurance that excess storm costs, to the extent reasonably and prudently incurred, could be recovered during the term of the 2002 Stipulation and Settlement. Specifically, OPC agreed that FPL would have the right to "petition the FPSC for recovery of prudently incurred costs not recovered from [the Storm Damage Reserve and insurance coverage]," that "[t]he fact that insufficient funds have been accumulated in the Storm Damage Reserve to cover costs associated with a storm event or events shall not be ... the basis of a disallowance" and that "the revenue mechanism herein described [--not excess storm restoration costs--] will be the appropriate and exclusive mechanism to address earnings levels." And yet if OPC's position is accepted, FPL would: (a) have no right to rate relief without reference to a 10% earnings level, (b) be faced with a significant disallowance, the effective result of not having had sufficient funds accumulated in the Storm Damage Reserve, and (c) have its earnings levels "addressed," if not lowered, by reference to something other than the Settlement Agreement's "exclusive" revenue mechanism. These are key benefits that were conditions to FPL's acceptance of the Settlement Agreement and would be eviscerated by application of OPC's position.

The positions of OPC and others in this proceeding would have the Commission, on an ex post basis, ignore prior regulatory decisions, existing settlement agreements, and Company and investor expectations relative to the recovery of reasonable and prudent storm restoration costs. Instead, the Commission's decision in this proceeding should uphold those prior decisions, the existing Settlement Agreement, and affirm the expectations of the Company and its investors relative to the recovery of storm restoration costs. In so doing, the Commission should consider the impact that any decision may have on future settlements, avoid introducing into the current regulatory framework any element of "second guessing," and continue to ensure that the message communicated to utilities is one that encourages the prompt and safe restoration of electric service to customers, unburdened by economic decisions during restoration activities,

and consistent with the obvious public interest expressed by government at all levels in this past hurricane season.

IV. ISSUES AND POSITIONS

ISSUE 1: What is the legal effect, if any, of FPL's 1993 storm cost study and Order No. PSC-95-0264-FOF-EI entered in Docket No. 930045-EI on the decisions to be made in this docket?

FPL: In its Order No. PSC-95-0264-FOF-EI, issued February 27, 1995, in Docket No. 930405-EI, the Commission approved accounting standards submitted by the Company pursuant to Commission order. FPL is obliged to adhere to Commission orders and has relied upon the Commission's 1995 order. Storm restoration costs were booked in accordance with the approved standards and were included in the Storm Damage Reserve deficit that was reported as an asset in the Company's 2004 financial statements. Changing the standards retroactively would undermine the basis for financial reporting with detrimental consequences for the capital market's perception of regulatory risk. Nothing has changed that would alter the propriety of using the standards approved in Docket No. 930405-EI. (Davis, Dewhurst).

ISSUE 2: Is the methodology in Order No. PSC-95-0264-FOF-EI, issued in Docket No. 930405-EI, for booking costs to the Storm Damage Reserve the appropriate methodology to be used in this docket?

FPL: Yes. FPL properly recorded costs based on the standards approved by the Commission in Docket No. 930405-EI and in effect at the time the costs were incurred. FPL's books as of December 31, 2004 reflect the Company's adherence to those standards. Nothing has changed that would alter the propriety of using the standards approved in Docket No. 930405-EI. Changes, if any, in these standards should only be made on a prospective basis. (Davis, Dewhurst)

ISSUE 3: Were the costs that FPL has booked to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993 by the Company in Docket No. 930405-EI?

FPL: Yes. Costs were booked to the Storm Damage Reserve were recorded consistent with the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. (Davis)

ISSUE 4: Has FPL quantified the appropriate amount of non-management employee labor payroll expense that should be charged to the storm reserve? If not, what adjustments should be made?

FPL: Yes. FPL has booked payroll costs to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. No adjustment is necessary. (Davis)

ISSUE 5: Has FPL properly treated payroll expense associated with managerial employees when determining the costs that should be charged to the storm reserve? If not, what adjustments should be made?

FPL: Yes. FPL has booked payroll costs to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. No adjustment is necessary. (Davis)

ISSUE 6: At what point in time should FPL stop charging costs related to the 2004 storm season to the storm damage reserve?

FPL: **Application of PSC Rule 25-6.0143, Florida Administrative Code,** provides that all costs determined to be the result of storm damages should be charged to the Storm Damage Reserve. (Davis, Williams)

ISSUE 7: Has FPL charged to the storm reserve appropriate amounts relating to employee training for storm restoration work? If not, what adjustments should be made?

FPL: **Yes. No pre-storm training costs have been charged** to the Storm Damage Reserve. No adjustments should be made. (Davis, Whalin)

ISSUE 8: Has FPL properly quantified the costs of tree trimming that should be charged to the storm reserve? If not, what adjustments should be made?

FPL: Yes. Only tree trimming costs incurred in conjunction with storm restoration have been charged to the Storm Damage Reserve. No adjustments should be made. (Davis, Whalin, Williams)

ISSUE 9: Has FPL properly quantified the costs of company-owned fleet vehicles that should be charged to the storm reserve? If not, what adjustments should be made?

FPL: Yes. FPL has charged vehicle costs to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. No adjustment is necessary. (Davis)

ISSUE 10: Has FPL properly determined the costs of call center activities that should be charged to the storm damage reserve? If not, what adjustments should be made?

FPL: Yes. FPL has charged incremental costs of the call center operation to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. No adjustment is necessary. (Davis)

ISSUE 11: Has FPL appropriately charged to the storm reserve any amounts related to advertising expense or public relations expense for the storms? If not, what adjustments should be made?

FPL: Yes. FPL has properly charged certain advertising expenses or public relations expenses to the Storm Damage Reserve consistent with the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. No adjustment is necessary. (Davis)

ISSUE 12: Has uncollectible expense been appropriately charged to the storm damage reserve? If not, what adjustments should be made?

FPL: FPL has not charged the Storm Damage Reserve with uncollectible accounts expense. If the Commission follows the methodology in the study filed on October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995, no adjustments should be made. See Issue 15. (Davis)

ISSUE 13: Of the costs that FPL has charged or proposes to charge to the storm reserve, should any portion(s) instead be booked as capital costs associated with its retirement (including cost of removal) and replacement of plant items affected by the 2004 storms? If so, what adjustments should be made?

FPL: No. FPL has appropriately accounted for additions, retirements and removal costs in accordance with the methodology in the study filed October 1, 1993 in Docket No. 930405-EI and approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. (Davis)

ISSUE 14: Has FPL appropriately quantified the costs of materials and supplies used during storm restoration that should be charged to the storm reserve? If not, what adjustments should be made?

FPL: Yes. Materials and supplies inventory costs directly related to storm restoration activities were appropriately charged to the Storm Damage Reserve in accordance with the study filed October 1, 1993 in Docket No. 930405-EI and

approved by the Commission in Order No. PSC-95-0264-FOF-EI, issued February 27, 1995. No adjustments should be made. (Davis, Whalin)

ISSUE 15: If the Commission does not apply in this docket the methodology applied by FPL for charging expenses to the storm reserve pursuant to the study filed on October 1, 1993 by the Company and addressed by the Commission in Order No. PSC-95-0264-FOF-EI in Docket No. 930405-EI, should the Commission take the following items into account and, if so, what adjustments should be made?

- a. Revenues lost by the Company due to the disruption of customer service during the 2004 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 which must be postponed due to the urgency of the storm restoration and accomplished after the restoration was completed (catch-up work);
- d. Uncollectible accounts receivable write-offs directly related to the storms; and
- e. Incremental contractor, outside professional services and temporary labor costs due to work postponed due to the urgency of the storm restoration and accomplished after the restoration was completed.

FPL: Yes. If the Commission departs from the methodology applied by FPL for charging expenses to the Storm Reserve pursuant to the study filed on October 1, 1993 by the Company and addressed by the Commission in Order No. PSC-95-0264-FOF-EI in Docket No. 930405-EI, the Commission should take into account impacts on the Company and expenses incurred that were directly caused by the hurricanes, but were not charged to the Storm Damage Reserve. Such impacts and adjustments would include \$38.2 million in lost base rate revenues, \$9.0 million in overtime worked by Company employees during the last two months of 2004 (catch-up work), nearly \$6 million in uncollectible accounts receivable write-offs directly related to the storms, and \$7.0 million in incremental expenses associated with contractors and outside professional services during the last two months of 2004. (Davis)

ISSUE 16: Taking into account any adjustments identified in the preceding issues, what is the appropriate amount of storm-related costs to be charged against the storm damage reserve?

FPL: \$890 million. (Davis)

ISSUE 17: Were the costs FPL has booked to the storm reserve reasonable and prudently incurred?

FPL: Yes. The \$890 million in costs FPL has incurred and booked to the Storm Damage Reserve were necessary, reasonable and prudent in safely and rapidly restoring service to more than 5.35 million customers during the most active hurricane season on record in the State of Florida. FPL's efforts and its approach to restoration were consistent with the overarching public policy favoring prompt and safe restoration of electric service, consistent with the unwavering and oft-repeated expectations of state and local government, and consistent with the regulatory framework instituted by the Florida Public Service Commission following Hurricane Andrew.

Despite the punishing circumstances and monumental challenges presented by three back-to-back hurricanes, within three days following each of the three storms the Company was successful in restoring power to more than 75% of the customers who had lost power. FPL's performance compares favorably with that of Dominion Virginia Power following Hurricane Isabel. FPL's performance also has been reviewed by an independent consultant, Davies Consulting, Inc., ("DCI"), which concluded that FPL met or exceeded standard industry practices in virtually every facet of the restoration, particularly in the areas of infrastructure performance, crew and logistics mobilization, restoration planning and implementation, and FPL's ability to restore a large percentage of customers within the first few days. In DCI's opinion, no other U.S. utility could have addressed the restoration effort in a six-week period as successfully as FPL did. The receipt earlier this year of the Edison Electric Institute ("EEI") award for emergency response (FPL's third in the past four years) provided further validation of FPL's recognized industry-leading expertise. (Davis, Dewhurst, Whalin, Williams)

ISSUE 18: Is FPL's objective of safe and rapid restoration of electric service following tropical storms and hurricanes appropriate? (Policy issue)

FPL: Yes. FPL's efforts and its approach to restoration were consistent with the overarching public policy favoring prompt and safe restoration of electric service, consistent with the unwavering and oft-repeated expectations of state and local government, and consistent with the regulatory framework instituted by the Florida Public Service Commission following Hurricane Andrew. (Davis, Dewhurst, Whalin, Williams)

ISSUE 19: Does the stipulation of the parties that the Commission approved in Order No. PSC-02-0501-AS-EI affect the amount or timing of storm-related costs that FPL can collect from customers through the proposed surcharge? If so, what is the impact? (Legal issue)

FPL: No. FPL's request is consistent with, and expressly contemplated by, the Stipulation and Settlement that was executed by all parties to this proceeding, including OPC, in Docket No. 001148-EI, and approved by the Commission in Order No. PSC-02-0501-AS-EI, issued April 11, 2002. The Stipulation and Settlement establishes a regulatory mechanism that constitutes the "appropriate and exclusive mechanism to address earnings levels" and expressly contemplates that FPL would have the opportunity to recover expenditures incurred in the event of an extraordinary storm season. (Davis, Dewhurst, Avera)

ISSUE 20: In the event that the Commission determines the stipulation approved in Order No. PSC-02-0501-AS-EI does not affect the amount of costs that FPL can recover from ratepayers, should the responsibility for those costs be apportioned between FPL and retail ratepayers? If so, how should the costs be apportioned? (Legal issue)

FPL: No. The recovery from customers of all reasonable and prudent costs associated with storm restoration is central to the cost-of-service approach to regulation followed in Florida. Storm restoration costs are a cost of providing electric service in Florida and, as such, are properly recoverable from customers. There should be no apportionment of costs between the Company and its customers. Customers are the direct beneficiaries of the Company's restoration efforts. (Avera, Davis, Dewhurst)

Note: FPL objects to inclusion of Issue 20 in this Docket because this issue is inappropriate for consideration under cost-of-service regulation.

ISSUE 21: What is the appropriate amount of storm-related costs to be recovered from the customers?

FPL: \$533 million (jurisdictional) plus interest on the unrecovered balance. (Davis)

ISSUE 22: If recovery is allowed, what is the appropriate accounting treatment for the unamortized balance of the storm-related costs subject to future recovery?

FPL: The commission should authorize the transfer of the unamortized balance of the storm related costs subject to future recovery from the Storm Damage Reserve (Account 228.1) to a deferred Regulatory Asset (Account 182.3). The amount transferred should be amortized consistent with the amounts recovered as revenue through the authorized surcharge recovery factor. (Davis)

ISSUE 23: Should FPL be authorized to accrue and collect interest on the amount of storm-related costs permitted to be recovered from customers? If so, how should it be calculated?

FPL: Yes. Interest should be calculated monthly using the average commercial paper rate applied to the average un-recovered balance for the month. The interest rate used should be the same interest rate used for cost recovery clause under/over recovered balances. (Davis)

ISSUE 24: Should FPL be required to normalize the tax impacts associated with 2004 tax losses that will be recovered over time through year end 2007? If so, what adjustment should be made?

FPL: No adjustment is necessary. Deferred income taxes are provided on all significant temporary differences between the financial statement and tax bases of the assets and liabilities. For financial reporting purposes FPL has recorded the storm related costs in excess of the storm damage reserve as a deferred asset. To the extent that these un-recovered costs are deductible for tax purposes, a deferred tax liability has been recorded, i.e., normalized. These deferred taxes will reverse (turn around) as the expense is recognized for book purposes. (Davis)

Note: FPL objects to Issue 24 being included as an issue in this Docket. There has been no allegation in testimony that this is an issue in any respect for FPL. Therefore, it should not be an issue in this case.

ISSUE 25: If the Commission approves recovery of any storm-related costs, how should they be allocated to the rate classes?

FPL: The Storm Recovery Surcharge should be allocated to rate classes based on each rate class's share of gross plant divided by its kWh sales. The resulting calculation of the Storm Recovery Surcharge factors by rate class is reflected in Document No. RM-1 attached to the Direct Testimony of Rosemary Morley filed in this Docket. (Morley)

ISSUE 26: What is the appropriate recovery period?

FPL: The jurisdictional portion of the Storm Reserve Deficit, \$533 million, should be recovered over a three-year period, or such shorter period as is necessary to recover the Storm Reserve Deficit. (Davis, Morley)

ISSUE 27: If the Commission approves a storm cost recovery surcharge, should the approved surcharge factors be adjusted annually to reflect actual sales and revenues?

FPL: FPL does not believe such an exercise is necessary. The Storm Recovery Surcharge will be subject to true-up based on actual sales and revenues, and any over- or under-recovery will be subject to disposition as ordered by the Commission. (Davis, Morley)

ISSUE 28: If the Commission approves a mechanism for the recovery of storm-related costs from the ratepayers, on what date should it become effective?

FPL: It should be deemed effective the same date as the interim surcharge became effective (Feb. 17, 2005). (Davis, Morley)

ISSUE 29: What is the appropriate disposition of the revenue collected as an interim storm cost recovery surcharge?

FPL: Revenues collected on an interim basis, less revenue taxes, should be applied to the amount approved for recovery by the Commission. (Davis)

ISSUE 30: Should the docket be closed?

FPL: Yes.

V. LEGAL ISSUES

FPL considers Issues 1, 19 and 20 above issues of law.

VI. POLICY ISSUES

FPL considers Issue 18 above an issue of policy.

VII. STIPULATED ISSUES

There are no stipulated issues at this time.

VIII. PENDING MOTIONS

There are no pending motions at this time.

IX. PENDING REQUESTS FOR CONFIDENTIAL CLASSIFICATION

Florida Power & Light Company's Request for Confidential Classification of Certain Materials Provided in Connection with the Storm Cost Recovery Audit No. 04-343-4-1, filed March 3, 2005.

X. REQUIREMENTS OF THE PREHEARING ORDER THAT CANNOT BE MET

At this time, FPL is not aware of any requirements in the Order Establishing Procedure with which it cannot comply.

XI. OBJECTIONS TO WITNESSES' QUALIFICATIONS

At this time, FPL has no objections to a witness' qualifications as an expert.

Respectfully submitted this 28th day of March, 2005.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's Prehearing Statement, has been furnished electronically and by United States Mail this 28th day of March, 2005, to the following:

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