

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for issuance of a storm recovery financing order, by Florida Power & Light Company. | DOCKET NO. 060038-EI
ORDER NO. PSC-06-0301-PHO-EI
ISSUED: April 18, 2006

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on April 13, 2006, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

R. WADE LITCHFIELD, ESQUIRE, NATALIE FUTCH SMITH, ESQUIRE, and BRIAN S. ANDERSON, ESQUIRE, Florida Power & Light Company, 700 Universe Blvd., Juno Beach, Florida 33408-0420 and JOHN T. BUTLER, ESQUIRE, Florida Power & Light Company, 9250 West Flagler Street, Miami, Florida 33102
On behalf of Florida Power & Light Company (FPL).

HAROLD McLEAN, ESQUIRE, CHARLES BECK, ESQUIRE, JOSEPH MCGLOTHLIN, ESQUIRE, and PATRICIA CHRISTENSEN, ESQUIRE, Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida (OPC).

JOHN W. MCWHIRTER JR., ESQUIRE, McWhirter, Reeves Law Firm., 400 North Tampa Street, Suite 2450, Tampa, Florida 33601-3350 and TIMOTHY J. PERRY, ESQUIRE, McWhirter, Reeves Law Firm, 117 South Gadsden Street, Tallahassee, Florida 32301
On behalf of Florida Industrial Power Users Group (FIPUG).

ROBERT SCHEFFEL WRIGHT, ESQUIRE, and JOHN T. LAVIA, III, ESQUIRE, Yong van Assenderp, P.A., 225 South Adams Street, Suite 200, Tallahassee, Florida 32301
On behalf of the Florida Retail Federation (FRF).

MICHAEL B. TWOMEY, ESQUIRE, P.O. Box 5256, Tallahassee, Florida 32314-5256
On behalf of AARP (AARP).

LIEUTENANT COLONEL KAREN WHITE and CAPTAIN DAMUND WILLIAMS, AFCESA/ULT, 130 Barnes Drive, Suite 1, Tyndall Air Force Base, Florida 32403
On behalf of Federal Executive Agencies (FEA)

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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On behalf of the Office of the Attorney General (AG).

WM. COCHRAN KEATING, IV, ESQUIRE, JENNIFER S. BRUBAKER,
ESQUIRE, and ROSANNE GERVASI, ESQUIRE, Florida Public Service
Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Florida Public Service Commission (STAFF).

PREHEARING ORDER

I. CASE BACKGROUND

On January 13, 2006, Florida Power & Light Company (FPL) filed a Petition for Issuance of a Storm Cost Recovery Financing Order, along with supporting testimony and exhibits, pursuant to Sections 366.04, 366.05, and 366.8260, Florida Statutes. A formal evidentiary hearing has been scheduled for April 19-21, 2006.

II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 366, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, Florida Administrative Code, as well as any other applicable provisions of law.

IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 366.093, Florida Statutes, and Rule 25-22.006, Florida Administrative Code, shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the

time period set forth in Section 366.093, Florida Statutes. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 366.093, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 366.093, Florida Statutes, at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Division of the Commission Clerk and Administrative Services' confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), Florida Administrative Code, if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the

exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Moray P. Dewhurst	FPL	5, 35, 37 – 44, 48 – 54, 56 – 68, 74 – 76, 81, 84
Geisha J. Williams	FPL	7, 10, 11, 12, 14, 22, 26 – 32, 36
Dr. Richard E. Brown	FPL	27, 28, 30 - 33
+Mark Warner	FPL	Direct – 10, 36 Rebuttal – 1, 8, 17, 26, 36
K. Michael Davis	FPL	1 – 4, 6 – 20, 22 – 26, 29, 34, 36, 38, 42, 43, 44, 45, 46, 47, 55, 57, 59, 72, 73, 77, 78, 82, 83
+Steven P. Harris	FPL	Direct – 37 Rebuttal – 37
Wayne Olson	FPL	47, 50 – 54, 56 – 71, 74
+Dr. Leonardo E. Green	FPL	Direct – 79 Rebuttal – 17, 79
Dr. Rosemary Morley	FPL	17, 39, 41, 44, 66, 68, 76, 80, 84, 85, 86
James S. Byerley, P.E.	OPC	27 – 33
Hugh Larkin, Jr.	OPC	6, 9, 15, 17, 24
Donna DeRonne, C.P.A.	OPC	1 – 4, 7, 9, 11 – 14, 16, 17, 19, 20, 21, 22, 24, 26

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Stephen A. Stewart	OPC (jointly w/AARP)	37
Kathy L. Welch	STAFF	22
Joseph D. Jenkins	STAFF	35
Michael L. Noel	STAFF	60, 61, 67
Joseph S. Fichera	STAFF	48 - 59, 61 - 68, 71, 74, 82, 83
Rebecca Klein	STAFF	62, 67

Rebuttal

Dr. Richard E. Brown	FPL	27 - 33
Barbara A. Jaindl	FPL	18, 27 - 33
Geisha J. Williams	FPL	20, 27 - 32, 36
Wayne Olson	FPL	61 - 64, 67, 68, 71, 74
Hugh Gower	FPL	6, 17
K. Michael Davis	FPL	1 - 4, 6 - 9, 12, 14, 15, 17 - 24, 26
Moray P. Dewhurst	FPL	5, 35, 37 - 39, 42, 43, 48, 56 - 59, 61 - 68, 71, 74

VII. BASIC POSITIONS

FPL: A. Storm Cost Recovery Regulatory Background

Utilities such as FPL are entitled to recover prudently incurred costs to provide electric service. Storm recovery costs are a cost of providing electric service in Florida. Windstorm insurance coverage, secured on behalf of customers and in the past included as a part of FPL's cost to provide electric service, has not been cost-effectively available since Hurricane Andrew in 1992. Storm recovery costs

are not reflected in FPL's base rate charge.¹ Thus, storm-recovery costs must be recovered through means other than FPL's base rate charge.

Pursuant to prior Commission orders and consistent with Rule 25-6.0143, Florida Administrative Code, FPL has established a storm and property insurance reserve (Account No. 228.1) ("Reserve") in amounts that were intended to be sufficient to cover, among other things, storm-recovery costs associated with most but not all storm seasons.

Consistent with past Commission policy and practice, in cases of extreme weather and restoration costs, a special assessment or surcharge is an appropriate means to recover the cost of storm restoration in excess of the Reserve. A long period of relatively mild hurricane seasons allowed the Reserve to grow to \$354 million prior to being depleted as a result of the unprecedented 2004 storm season, leaving the Company's Reserve with a large deficit to recover through a special assessment.

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 in effect as well as the target amount of the storm damage reserve. In consideration of the existing Reserve balance at the time, among other factors, 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).

¹ Prior to the Stipulation and Settlement Agreement approved by the Commission in Docket No. 050045-EI, \$20.3 million, a relatively small portion of the expected annual cost of storm restoration, was reflected in the Company's base rates.

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, and therefore are legitimately recoverable from customers under basic principles of regulation. They are not foreseeable "business risks." FPL does not now recover (and has not since Andrew recovered) 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. 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.

B. The 2004 Storm Cost Proceeding and 2005 Rate Settlement Agreement

Pursuant to FPSC Order No. PSC-05-0937-FOF-EI, issued September 21, 2005, in Docket 041291-EI, FPL's prudently incurred 2004 storm season costs in excess of the Reserve currently are being recovered through a monthly storm recovery surcharge equal to \$1.65 for a 1000 kWh residential bill ("2004 Storm Restoration Surcharge").

In its base rate proceeding last year in Docket No. 050045-EI, FPL proposed to increase base rates by an amount sufficient to cover the expected average annual cost of storm restoration plus an amount to replenish the Reserve over a reasonable period of time. The parties to the Stipulation and Settlement Agreement in Docket No. 050045-EI ("Settlement Agreement") elected instead to hold base rates constant by providing for the recovery of all such costs outside of the Company's base rates. Replenishment of the Reserve and recovery of the cost of restoring power in the wake of storms was to be accomplished through means of a new financing vehicle approved by the Florida Legislature during its 2005 session and codified in Section 366.8260, Florida Statutes (2005), and/or through the more conventional mechanism of a special assessment or surcharge.

In approving the Settlement Agreement, however, the Commission expressed concern about being left without a more definite course of action to replenish the Reserve and strongly encouraged the Company to propose a plan at the earliest opportunity. FPL therefore filed its petition in this proceeding in response to its commitment to the Commission to pursue a plan to replenish its Reserve within six months of the Commission's approval of the Settlement Agreement. See Order No. PSC-05-0902-S-EI, Docket Nos. 050045-EI, 050188-EI (issued September 14, 2005), at p. 5.

C. The 2005 Storm Season and FPL's Restoration Work

FPL and its customers were subjected to another extremely destructive hurricane season in 2005. During 2005, FPL and its customers were affected by four hurricanes – Dennis, Katrina, Rita and Wilma. All four of the hurricanes impacted the most densely populated areas in FPL's service territory, Palm Beach, Broward and Miami-Dade counties, where 60% of FPL's customers reside. Hurricane Katrina made landfall near the Miami-Dade and Broward county line. Hurricane Wilma made landfall on the southwest coast of Florida and exited near Palm Beach, significantly impacting Palm Beach, Broward and Miami-Dade counties and causing more outages for FPL than any other previous storm. In addition to the damage to FPL's infrastructure, Hurricane Wilma caused significant damages to the communities that the Company serves. Hurricane Wilma was the worst storm to impact Miami since August 1992, when Hurricane Andrew caused more than \$25 billion in damage. The American Red Cross also has reported that over 27,000 dwellings were destroyed or rendered temporarily unlivable, an indication of the destruction caused by Hurricane Wilma. Hurricanes Dennis and Rita, while not making landfall in FPL's territory, traveled near enough for their outer bands to cause significant outages, particularly in Miami-Dade and Broward counties.

Of the four storms impacting FPL's service territory last year, the two storms inflicting the vast majority of damage to FPL's system in 2005 occurred subsequent to execution of the Settlement Agreement. Hurricane Wilma, a massive storm and the most destructive event to FPL's service territory of the season, swept across the most heavily populated areas within FPL's service territory and resulted in widespread damage to property and infrastructure, including huge portions of FPL's transmission and distribution system. In the heavily populated counties of Miami-Dade, Broward, and Palm Beach, 99% of FPL's customers were without power once the storm passed. Unlike prior storms, Hurricane Wilma inflicted damage not just to distribution systems, but to transmission structures and substations throughout FPL's service territory. To repair the damage and restore service to more than 3.2 million customers in 21 counties, over 19,000 restoration workers, including approximately 9,200 foreign utility and other contractor personnel, from 36 states and Canada were deployed by FPL. A restoration team of this size had never before been assembled in FPL's 80 year history.

FPL's planning and execution before, during and after the 2005 storms was focused upon safely restoring the greatest number of customers in the least amount of time to return the communities the Company serves to normalcy. For the four 2005 storms, approximately 5.3 million customers required power restoration. For Hurricanes Dennis and Rita, customers were 100% restored within three and two days, respectively. For Hurricane Katrina, 77% of the customers affected were restored in three days, 95% in five days and 100% in

eight days. For Hurricane Wilma, FPL restored service to over two million customers, or 65% of all affected customers by the fifth day, and 100% were restored by the eighteenth day. The high percentages accomplished in the first few days in each storm result from FPL's consistently applied restoration strategy – to restore devices that serve the largest number of customers first. FPL further refined its processes and effectively managed field operations, while acquiring an extraordinary number of workers and managing many staging sites. As a result, FPL restored service to its customers and repaired its facilities in an expeditious and prudent manner. FPL submits that its 2005 storm-recovery, described more fully in the Company's supporting testimony, are reasonable and prudent, "with reference to the general public interest in, and the scope of effort required to provide, the safe and expeditious restoration of electric service", as provided for in Section 366.8260(2)(b)1.b, Florida Statutes.

D. FPL's 2005 Storm Costs and Total Storm Reserve Deficit

As a result of the devastating impact of the 2005 storm season, in addition to the need to replenish the Reserve to a reasonable level for future storm seasons, FPL and its customers are left with an even larger deficit in the Reserve and a more urgent need to remedy the situation in anticipation of yet another potentially active storm season. Total estimated storm-recovery costs for 2005 are \$906.4 million, including \$721.7 million due to Hurricane Wilma, increasing the Reserve deficiency to a level of approximately \$816 million and leaving a deficit balance in the Reserve in excess of \$1.1 billion.

E. FPL's Request for Recovery and for a Storm Recovery Financing Order

Historically, there have been periods of higher and lower hurricane activity. A growing body of climatological evidence suggests that the Atlantic basin has entered a more active period for hurricane formation. If true, an adequate and timely replenished Reserve is even more critical to meet the needs of another potentially active storm season in 2006.

As contemplated by Section 366.8260(2)(b)1.b., FPL requests that the Commission approve recovery of FPL's prudently incurred storm-recovery costs related to the 2005 storm season. Such recovery will enable FPL to continue to fulfill its statutory obligation to serve its customers by safely and expeditiously restoring power in the event of storms, with FPL being timely reimbursed for its reasonable and prudently incurred storm-related costs. Further, such approval will reduce regulatory uncertainty associated with storm-related expenditures.

FPL requests that the Commission issue a Financing Order substantially in the form submitted by FPL with its Petition to implement storm-recovery financing as provided for in Section 366.8260. Specifically, FPL requests that the Commission approve the issuance of storm-recovery bonds in the amount of up to

\$1,050 million, enabling: (i) recovery of the remaining unrecovered balance of the 2004 storm costs; (ii) recovery of the 2005 prudently incurred storm costs; (iii) replenishment of the Reserve to a level of approximately \$650 million; and (iv) recovery of the upfront bond issuance costs. Bonds are issued for the after-tax value of storm restoration costs to recognize the tax benefit received when storm restoration costs are deducted for income tax purposes. Thus, the \$1,039 (approximately) million of bond proceeds available after the payment of upfront bond issuance costs, provides approximately \$638 million to reimburse the Company for unrecovered storm costs and approximately \$400 million to replenish the fund (the after-tax equivalent of a \$650 million Reserve).

In order to facilitate review of the matters presented in the Petition and to help ensure that the requisite elements needed to satisfy rating agency conditions, obtain favorable tax treatment, and otherwise ensure the benefits associated with the issuance of storm-recovery bonds, FPL submitted a proposed form of financing order as Exhibit B to its Petition. FPL requests issuance of the Financing Order substantially in the form proposed.

F. The Effects of Granting FPL's Petition for a Financing Order

As explained in its Petition and FPL's supporting testimony, approving a Financing Order will enable FPL to cause the issuance of storm-recovery bonds to recover in a timely manner the storm-recovery costs that the Company incurred and advanced on behalf of its customers during the highly destructive back-to-back 2004 and 2005 storm seasons.

The unrecovered portion of the 2004 storm-recovery costs also would be included for recovery in the subject financing, as well as FPL's prudently incurred 2005 storm-recovery costs. Thus, the 2004 Storm Restoration Surcharge would be terminated on the effective date of the new cost recovery mechanism implemented pursuant to the Financing Order and upon issuance of the storm-recovery bonds.

Approving the requested Financing Order to recover storm-recovery costs incurred also will enable FPL to replenish the Reserve to a level of approximately \$650 million. Although a Reserve of \$650 million is not necessarily what the Company would project as an adequate Reserve level going forward, weighing a number of factors including (i) an expected average annual cost for windstorm losses of approximately \$73.7 million as determined by FPL's outside expert Steven P. Harris, (ii) the possibility that Florida is in the midst of a much more active hurricane period relative to average levels of activity over the much longer term, (iii) the potentially diminished availability of non-T&D property insurance, (iv) the impact of the recent severe and unprecedented storm seasons on customer bills in the near term, and (v) the opportunity to revisit this issue in future

proceedings, establishing a Reserve level of approximately \$650 million is reasonable at this time.

The financing that would be implemented pursuant to Section 366.8260 would provide customers with the benefit of lower cost long-term financing than otherwise would be available. From the point of view of FPL's customers, an issuance of storm-recovery bonds as proposed can reasonably be expected to result in a lower, relatively constant monthly storm charge estimated at \$1.58 (based on recent market conditions) for a 1000 kWh residential bill over an approximate twelve-year period, in lieu of continuing the 2004 Storm Restoration Surcharge plus other surcharges that would be needed to recover prudently incurred 2005 storm-recovery costs and begin to replenish the Reserve over a reasonable period of time.

Moreover, assuming timely implementation of the proposed storm recovery financing, customers will have the benefit of a funded Reserve being immediately available during the peak of the 2006 storm season. The same cannot be said for the more traditional method of building the Reserve through base rate accruals and/or surcharges. In the past, FPL and its customers have had to experience extended periods of abnormally low storm activity for the base rate accrual to build the Reserve to a level that, nevertheless, proved to be well short of what was necessary to respond to the 2004 storm season, let alone back-to-back seasons of the magnitude experienced. The same also would be true of a surcharge unless it were sufficiently large to cover much more than just expected annual losses.

G. Storm Recovery Financing Order Cost Recovery Methods

The storm cost recovery described in FPL's Petition, and associated financing costs, would be paid for pursuant to an approximate twelve-year Storm Bond Repayment Charge that would be applied on a per kWh basis to all applicable customer classes. FPL customers would pay for any tax liabilities associated with the collection of the Storm Bond Repayment Charge through a similarly collected Storm Bond Tax Charge, to the extent such tax liabilities are not otherwise recovered from customers through other rates or charges. In connection with this proceeding, FPL submitted proposed Storm Bond Repayment Charge and Storm Bond Tax Charge tariff sheets that will closely approximate the final figures, barring significant changes in the terms of an issuance of storm-recovery bonds. The Storm Bond Repayment Charge and Storm Bond Tax Charge together comprise the "Storm Charge." The existing 2004 Storm Restoration Surcharge would be terminated simultaneously with the effective date of the proposed tariff sheets.

Advantages of proposed storm recovery financing include recovery of the 2005 storm-recovery costs and immediate replenishment of the Reserve by approximately \$650 million during the 2006 hurricane season. Customers also

would pay a lower per kWh charge over a longer period of time relative to the 2004 Storm Restoration Surcharge which would be discontinued.

In light of the size of the current deficit and the need to begin to reduce the deficit and rebuild the Reserve to prepare for another potentially active storm season, the Company requests that as part of the Financing Order the Commission approve a surcharge to be applied to bills rendered on and after August 15, 2006 to recover the 2005 storm-restoration costs over approximately three years (or until the applicable revenue requirements have been recovered) in the event the issuance of storm-recovery bonds is delayed for any reason. The monthly impact to residential customers of this surcharge is currently estimated to be \$2.98 for a typical (1,000 kWh) residential bill based on current estimates for 2005 storm restoration costs. This surcharge would only be implemented in the event of a delay in issuing the storm-recovery bonds and it would be discontinued upon issuance. The amount of storm-recovery bonds issued would be adjusted to reflect collections pursuant to this surcharge, thus commensurately reducing the resulting Storm Charge.

Conversely, if the Commission declines to issue the Financing Order in substantially the form of Exhibit B, and/or does not grant the associated approvals for FPL to implement storm recovery financing under Section 366.8260, FPL requests in the alternative that the Commission approve a surcharge effective for bills rendered on and after June 15, 2006 in the amount and for such period as described more fully below to recover its prudently incurred storm costs during 2005 and also to begin to replenish the Reserve to a reasonable level. This surcharge would be in addition to the 2004 Storm Restoration Surcharge which would remain in effect. In connection with the recovery of such costs through a surcharge, FPL likewise requests approval of its prudently incurred storm-recovery costs related to the 2005 storm season. If the Commission approves FPL's alternative request, FPL would submit tariff sheets for administrative approval.

FPL requests that the Commission consider and approve the relief requested in its petition consistent with the 135-day timeline set forth in Section 366.8260(2)(b)1.b. in order that storm-recovery bonds may be issued, and that the purposes of this Petition be achieved. This would allow the establishment of a Reserve of approximately \$650 million, in preparation for the 2006 storm season or, alternatively, timely implementation of a surcharge to recover prudently incurred storm-recovery costs in connection with the 2005 storm season and to begin to replenish the Reserve.

FPL's requests in its petition do not address future storm damage in excess of the Reserve level, irrespective of the method approved by the Commission in this proceeding. FPL would petition the Commission at a later time for recovery of

such excess amounts, consistent with past Commission policy and decisions, in the event that expenditures exceed the Reserve balance.

H. Summary Comment on Intervener Positions

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, and consistent with the obvious public interest expressed by government at all levels in this past hurricane season. FPL's testimony summaries in Section I B above provide a brief overview of FPL's responses to interveners' positions.

OPC:

The extent of the damages caused by Hurricane Wilma to FPL's transmission and distribution facilities was exacerbated by prior inadequate inspection and maintenance practices by FPL. Specifically, the failures of the Corbett-Conservation 500 kV line and the Alva-Corbett 230 kV line were the result of maintenance practices and construction management that were inadequate, especially in light of the fact that FPL knew as early as 1998 of loose and missing brace bolts on the Corbett-Conservation towers.

FPL was aware of a widespread problem of loose and missing cross-brace bolts as early as 1998. Also in 1998, FPL was aware that this problem could pose a serious risk of failure in high wind situations. FPL failed to take adequate measures to rectify the loose bolts problem in 1998 and the following years. FPL failed to properly record the problem in its asset management system, on which it bases inspection decisions. Perhaps because of the resulting inadequate records, FPL failed to establish an inspection program adequate to monitor and correct the problem after 1998. Had FPL peened all of the bolt threads, as internal documents suggested at the time, or had FPL placed fasteners on all of the cross brace bolts, as its structural engineer recommended after 30 towers collapsed, the towers would not have fallen during Hurricane Wilma.

Of FPL's three pole inspection programs, only one—the Osmose program—constitutes a detailed and effective inspection program. FPL initiated it in a small way in 1999, and has since reduced the scope of the program. Past inspection practices have been, with the exception of the limited Osmose program,

insufficient to identify and replace deteriorated poles, with the result that many of the poles that fell during Wilma did so—not because of high winds—but because of their deteriorated condition. inadequate vegetation management is responsible for 12% of the total poles failures. Since FPL has apparently concluded that it is more cost effective, for its purposes, to replace tree-damaged poles than to prevent the damage, FPL is not entitled to recover their preventable costs, nor are they are entitled to recover the repair costs of the conductors associated with these poles.

The Commission must also not allow FPL to include costs in hurricane repair if they are the types of costs already reflected in base rates. Normal levels of employee salaries is an example of this type of cost. Under the approach advocated by OPC, in order for a cost to be recovered, it must be incremental, or over and above, what is reflected in base rates. Unlike the method proposed by FPL here, the incremental approach is the general approach adopted by the Commission in 2004 and is the one proposed by Gulf Power in its pending securitization proceeding. In addition to salaries and benefits, adjustments should be made to tree-trimming, vehicle costs, telecommunications costs, and materials and supplies to reflect the incremental cost method.

Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. For example, lawsuit claims and image enhancing advertising should be removed. Claims for still unrealized contingencies should be eliminated. In addition, offsets should be made for items such as proceeds received for other companies for assisting them with hurricane repairs and amounts due from companies such as BellSouth for repairing their poles. FPL fails to account for these offsets in its request.

The overall approach of FPL essentially asks the Florida Public Service Commission to hold the Company harmless from all business risk. It should be kept in mind that the purpose of regulation is to be a substitute for competition. The Public Service Commission should look to the business risk which was borne by FPL's customers in regard to the storm damage they incurred as a proxy for the business risk which FPL should bear. Customers were not able to make claims for items such as lost revenue, backfill, employee assistance, advertising, etc. Because of the tremendous strain that the storms have placed on Southern Florida and the Florida economy in general, the Commission must spread the burden of storm restoration costs in a fair and equitable manner and not attempt to remove the business risk for which FPL is already compensated in its rate of return.

A storm damage reserve level of \$150 million to \$200 million is large enough to withstand the storm damage from most but not all storm seasons over the last 16 years. Any storm damage reserve deficiencies resulting from excessive losses

could be addressed with a separate surcharge. Keeping the storm damage reserve level as low as is reasonably possible will reduce interest and bond issuance costs and minimize the financial impact on customers' rates, while still allowing FPL and the Commission the flexibility to address FPL's prudent storm recovery costs from year to year.

FIPUG: FIPUG agrees with the positions of the Office of Public Counsel (OPC) in general, and the revenue sharing position of Staff on revenue issues. FIPUG supports the incremental cost recovery methodology set forth in the testimony of OPC witnesses Hugh Larkin and Donna DeRonne, and the financing advice propounded by the Staff's financial witnesses. For reasons set out in its position statement on Issue 35 below, FIPUG takes no position on the risk sharing approach of Staff witness Joe Jenkins.

The incremental cost approach is a fair method of storm cost recovery for both the ratepayers and the utility. It allows the utility to recover the cost of storm restoration activities while shielding ratepayers from any double recoveries by removing costs that are covered via the utility's base rate revenues. FIPUG strongly opposes FPL's proposal to diminish the OPC's incremental accounting approach by plugging in "lost revenues." Adjusting for lost revenues negates the incremental cost approach and, in effect, accomplishes the same result as FPL's proposed actual restoration cost approach, which results in double recoveries. Further, adjustments for lost revenues are unnecessary in light of the fact that FPL's electric sales, and thus its revenues, during the storm period actually exceeded its projections even though some customers received no service. Moreover, according to surveillance reports filed by FPL with the Commission, FPL's normal O&M costs and its full authorized rate of return were collected from its customers during the July-December 2005 time period.

It appears that all parties are attempting to insure that present customers are not unfairly treated with respect to income taxes by developing a procedure that matches storm expenses with revenue collected to cover these expenses. FIPUG encourages this effort, and seeks a treatment that will ensure that every dollar collected from ratepayers for storm damage is available to pay for such costs free from any adverse tax consequences. It should be made clear that income taxes do not reduce the level of the storm reserve.

With respect to allocating costs between customer classes, FIPUG endorses the approach that matches revenue collections to storm costs incurred — that is, customers taking service from the transmission system should not be charged for damages to the distribution system. However, FPL proposes instead to allocate the costs based on the cost of service methodology the company proposed in its last rate case, Docket No. 050045-EI. There were material disputes over FPL's cost of service studies in the 2005 base rate case. The case was settled without the Commission approving the studies. This is evidenced by the fact that the

order approving the settlement and stipulation — Order No. PSC-05-0902-S-EI — and the settlement and stipulation, which is an attachment to the order, uses the words “current” or “currently” nineteen times in the document. The use of “current” or “currently” is intended maintain the circumstances in place at the time the base rate case was filed, not approve the disputed testimony and exhibits filed in the case. Instead, the costs should be allocated based on the cost of service methodology last filed with and approved by the Commission in Docket No. 830465-EI.

FRF:

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.

AARP: Hurricane Wilma would have caused less damage to FPL's facilities, and FPL would be seeking far less compensation from its customers in this case, if its inspection and maintenance practices had been more adequate. This is especially true with respect to its transmission and distribution facilities. It appears that the failures of portions of two transmission lines were the result of FPL's inadequate construction management and maintenance practices. FPL's customers should not be held financially responsible for these inadequacies.

FPL's historic failure to properly inspect its over one million pole inventory led to greater storm damage than otherwise would have occurred had the utility properly and timely inspected its poles, maintained those capable of repair and replaced those requiring it. FPL's inadequate pole and inspection efforts led directly to increased damages, the costs of which are imprudent and, therefore, should not be recovered from customers. The same is true of FPL's inadequate tree-trimming, or vegetation management program, the failures of which led to a greater level of storm damage occurring than would have been the case with a prudent inspection and trimming program. None of the costs resulting from the failure to inspect and replace poles or from wind damage caused by inadequate vegetation management should be borne by customers.

There should also be no "double-counting" with the result that FPL's customers are charged for costs already reflected in base rates. AARP agrees with the approach advocated by the Office of Public Counsel ("OPC"), which is that recoverable costs must be "incremental" to those already in base rates. There are substantial double-counting reductions, as advocated by OPC, that are endorsed by AARP and which should be removed from charges to be recovered from customers.

Furthermore, the Commission should deny FPL recovery of any monies not spent directly on repairing facilities damaged by the storm.

Lastly, AARP believes the Commission should limit the costs customers must bear through a storm securitization surcharge by approving a storm damage reserve of no more than \$200 million. A \$200 million storm damage reserve is large enough to withstand the storm damage from most, but not all, storm seasons over the last 16 years. Any storm damage costs in excess of the reserve balance could be addressed with a separate surcharge, as with 2004's storm damages. Keeping the storm damage reserve level as low as is reasonably possible will reduce interest and bond issuance costs and minimize the financial impact on customers' rates, while still allowing FPL and the Commission the flexibility to address FPL's prudent storm recovery costs from year to year.

FEA: FEA concurs with FIPUG on all issues.

AG: Adopt same position as OPC.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

CHARGES TO STORM RESERVE

2004 Storm Costs

ISSUE 1: Did FPL stop charging 2004 storm-related costs to the storm reserve by July 31, 2005, for restoration work related to the 2004 storm season, as required by Order No. PSC-05-0937-FOF-EI? If not, what adjustments should be made?

POSITION:

FPL: Yes. As of July 31, 2005, total storm costs of \$890.0 million were reflected in FPL's accounting records. Subsequent to this date, adjustments were made pursuant to the referenced order to remove \$91.9 million resulting in \$798.1 million of storm costs approved for recovery. As to estimated costs recorded as of July 31, 2005, for work not completed at that date, differences that would result in actual costs exceeding \$798.1 million will be absorbed by the Company. If actual costs are less than \$798.1 million, FPL proposes that the difference be credited to the storm reserve. (Davis)

OPC: No. FPL added accruals to the 2004 storm reserve for legal claims and lawsuits and various nuclear storm damages that were not requested or identified in testimony, exhibits or other evidence in the record in Docket No. 041291-EI. Adjustments should be made to remove legal claims and lawsuits of \$2,664,038 and accruals for various nuclear storm damages of \$21,467,915. Also, 2004 storm costs should be adjusted to remove \$21,700,000 allowed in Order No. PSC-05-0937-FOF-EI that FPL did not reflect as actual or estimated projects initiated prior to the cutoff date of July 31, 2005. (DeRonne)

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: No. FPL has agreed to certain adjustments specified in Mr. Davis's rebuttal testimony, which should be addressed in a final true-up process. No adjustments other than those specified by Mr. Davis should be made. (Davis)

OPC: Yes, the 2004 storm costs should be adjusted to remove the estimated amounts for reimbursements for repair and restoration of poles owned by other parties. The amount recommended to be removed by OPC witness DeRonne is \$5,564,858. The adjustment should be adjusted to reflect the actual amount billed to other parties if the record subsequently reflects this amount. A review should be conducted once the actual amounts are true-up to ensure that the billings to outside parties for FPL's repair and replacement of poles owned by others is based on the actual costs incurred by FPL. (DeRonne)

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

- FPL:** No. There are some small differences between the deficiency balance and General Ledger due to rounding down the amount of 2004 storm costs approved for recovery, and differences between estimated and actual interest incurred and billed revenues as 2004 storm cost amounts have been recovered. Any differences remaining as of July 31, 2006 should be addressed as part of the final true-up. (Davis)
- OPC:** Yes, the 2004 reserve deficiency should be reduced \$51,396,811 to reflect the adjustments recommended by OPC witness DeRonne in Issues 1 and 2, above with a corresponding reduction in interest expense accrued at the pre-tax commercial paper rate on the account.
- FIPUG:** Agree with OPC.
- FRF:** Yes. Agree with OPC that the 2004 reserve deficiency should be reduced by \$51,396,811.
- AARP:** The same as the Office of Public Counsel.
- FEA:** Agree with FIPUG.
- AG:** Adopt same position as OPC.
- STAFF:** No position at this time.

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

POSITION:

- FPL:** Yes. FPL has properly reflected the effect of deferred income taxes related to storm costs in its computation of storm costs to be securitized. (Davis)
- OPC:** No position at this time, other than to state that interest should be reduced to reflect the reduction to the 2004 storm costs included in the reserve as recommended by OPC witness DeRonne.
- FIPUG:** Interest should be reduced to reflect the reduction to the 2004 storm costs included in the reserve as recommended by OPC witness DeRonne.

FRF: No position 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.

AARP: Agree with FIPUG.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: In accordance with fundamental principles of ratemaking, the Commission approved recovery by FPL of all costs of storm restoration that it deemed to be reasonably and prudently incurred. Nothing has changed that would alter the propriety of approving recovery of all reasonably and prudently incurred storm costs. (Dewhurst)

OPC: Order No. PSC-05-0937-FOF-EI contains some precedent for the Commission's decision in this case. However, the Commission can amend its policy decisions on issues such as lost revenues and the treatment of amounts FPL claims are uncollectible because such changes are supported by expert testimony and other evidence appropriate to the nature of the issues involved. *Southern States Utilities v. Florida Public Service Commission*, 714 So.2d 1046, 1057 (Fla. 1st D.C.A. 1998); *Florida Cities Water Company v. Florida Public Service Commission*, 705 So.2d 620 (Fla. 1st D.C.A. 1998).

FIPUG: Agree with OPC.

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 prudence issues) in this case.

AARP: Same position as FIPUG.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: FPL recommends using the Actual Restoration Cost Method addressed in Docket No. 930405-EI with an adjustment to remove normal capital costs. It should be noted that FPL's proposed methodology yields the same result as the Modified Incremental Cost Approach approved by the Commission in the 2004 Storm Cost Recovery Order, Order No. PSC-05-0937-FOF-EI. (Davis, Gower)

OPC: The risk shouldered by ratepayers in compensating companies for storm damage costs should be limited to the incremental costs incurred by utilities in restoring service to ratepayers that were prudently incurred, reasonable in amount, and otherwise properly charged to the storm reserve account. That incremental cost should reflect only those additional costs incurred by the company in restoring service which exceed costs already considered and reflected in rates. FPL's use of the total instead of incremental storm cost recovery methodology results in charging ratepayers twice for the same dollars, once through base rates and a second time through a storm recovery charge. Further, because the storm reserve should be limited to incremental costs of restoring the system, so-called "lost revenues" have no place in the Commission's determination, whether directly or indirectly. The purpose of the storm reserve is not to insulate FPL from the business risk associated with the possibility that revenues may vary with weather conditions. The incremental approach is also the methodology that Gulf Power has utilized in its storm recovery request and is the approach that the Commission should adopt. (Larkin)

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: No. FPL has only charged storm-related costs to the storm reserve. Therefore, no adjustments should be made. (Williams, Davis)

OPC: Yes. FPL has charged several items to the 2005 storm recovery costs that were maintenance projects planned prior to the damage incurred in 2005 by the storms, normal maintenance costs or offsets to O&M expenses which are recovered through base rates.

Previously Planned Maintenance - Condenser Tube Repairs: The projected 2005 storm recovery costs include \$2,386,000 for condenser tube repairs at Martin Units 1 and 2 that were planned maintenance prior to Hurricane Wilma. These costs should be included as base rate recovery items and should not be recovered through the storm reserve.

Regular Maintenance Costs - Hydrolasing Costs: FPL's 2005 storm cost estimate also includes \$144,000 for hydrolasing the Martin Unit 1 and 2 condenser tubes and \$77,000 for hydrolasing the Martin Units 3 and 4 condenser tubes. The hydrolasing was conducted to clean the tubes to prepare for testing and is a normal, recurring maintenance item included in base rate recovery. The 2005 storm costs should be reduced by 221,000.

Proceeds received for the Loan of FPL Personnel & Equipment to Other Power Companies: During 2005, FPL billed \$9,095,845 for the loan of company personnel and equipment to other power companies for storm restoration activities. The majority of the costs incurred by FPL in assisting other utilities are included in the costs recovered from through base rates. The 2005 storm recovery costs be offset by \$6,868,593, which is the amount billed by FPL to other utilities for the recovery assistance of \$9,095,845, less the amounts pertaining to travel and other of \$2,227,252. (DeRonne)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. FPL correctly quantified and included all regular payroll as a direct result of the 2005 storms for exempt, non-exempt and bargaining personnel, subject to an adjustment to remove normal capital costs. Because FPL tracks payroll costs by exempt, non-exempt and bargaining unit personnel, FPL does not separately quantify amounts of "non-management employee labor payroll expense." No adjustments should be made. (Davis)

OPC: No. Adjustments are necessary to ensure that the amount of payroll and labor related costs already recovered by FPL through base rates are not also recovered a second time through the recovery of the 2005 storm costs. Offset to these adjustments are not appropriate for nuclear payroll expected to be recovered through insurance, backfill and catch up work, or vacation buy backs. The following adjustments are appropriate:

Remove Estimated Regular Employee Salaries	(\$26,092,000)
Less: Payroll Normally Charged to Clauses	2,730,000
Less: Capital Payroll in Regular Salaries	8,000,000
Remove Employee Benefits - Already in Base Rates	<u>(9,213,514)</u>
Total Incremental Salary/Payroll Related Adjustments	<u>(\$24,575,514)</u>

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. FPL correctly quantified and included all regular payroll as a direct result of the 2005 storms for exempt, non-exempt and bargaining personnel, subject to an adjustment to remove normal capital costs. Because FPL tracks payroll costs by exempt, non-exempt and bargaining unit personnel, FPL does not separately quantify amounts of "managerial employees payroll expense." No adjustments should be made. (Davis)

OPC: No. The storm recovery cost is not a basis on which to provide extra compensation to employees who are salaried and have accepted that salary as full compensation for all time that they are required to put in. The 2005 storm costs should be reduced by \$768,000 to remove exempt employee overtime incentives. (Larkin, DeRonne)

FIPUG: Agree with OPC.

FRF: No. Agree with OPC that FPL's 2005 storm costs should be reduced by \$768,000 to remove exempt employees' overtime incentives.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 10: **WITHDRAWN**

ISSUE 11: Has FPL properly quantified the cost of tree trimming that should be charged to the storm reserve for 2005? If not, what adjustments should be made?

POSITION:

FPL: Yes. FPL's storm restoration costs only include the reasonable costs of removing vegetation as a result of the storms. Routine tree trimming is not charged to the storm reserve. No adjustments should be made. (Williams, Davis)

OPC: No. Adjustments are necessary to ensure that costs recovered by FPL through base rates are not recovered a second time through recovery of storm costs. A \$1,100,000 reduction to the tree trimming costs is appropriate to reflect that FPL's actual expenditures for non-storm related tree trimming were less than it included in its budget for 2005 tree trimming. (DeRonne)

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: Yes, the actual costs have been correctly quantified. No adjustments should be made. (Williams, Davis)

OPC: No. Adjustments are necessary to ensure that costs recovered by FPL through base rates are not recovered a second time through recovery of storm costs. A \$5,738,000 reduction is appropriate to remove a portion of the vehicle costs FPL indicates would have been incurred in the normal course of business, even absent the storms. FPL's 48% offset for vehicle costs it contends would have been incurred in the normal course of business (\$2,767,000) and charged to capital

costs is not appropriate. The Company has not supported the offset, nor has it shown that vehicle costs were not otherwise included in the storm related or other capital costs. Further, this offset was not allowed by the Commission in the 2004 storm docket. (DeRonne)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: Yes. FPL's has quantified and charged to the reserve call center incremental costs directly related to storm restoration. No adjustment should be made. (Davis)

OPC: No. The actual operation and maintenance expenses for telecommunications costs in 2005 were \$520,264 less than budgeted. The proposed 2005 storm recovery costs should be reduced by this \$520,264 so that only the incremental telecommunications costs beyond those factored into base rates are included. (DeRonne)

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. FPL has identified an adjustment of \$422,576 and recommends that this amount be included as part of the final true-up process. No adjustments should be made. (Williams, Davis)

OPC: No. Advertising costs for safety and other customer services are incorporated into the determination of base rates. Additional expenditures made informing the public of the Company's efforts to restore service are either covered in base rates or do not provide a direct benefit to ratepayers and are not directly related to the storm restoration efforts. As such, advertising and communications costs of \$2,528,196 and \$144,068 for a public relations invoice should be removed from the 2005 storm costs. (DeRonne)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. Storms result in increases in uncollectible expense that FPL estimates based on incremental usage during the collection policy suspension period and incremental usage during the period where collection workers reduce the

collection work backlog caused by the storms. No adjustment should be made. (Davis)

OPC: No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. It would be difficult, if not impossible, to relate uncollectible accounts directly to the effects of a storm. Even if it could be done, these expenses are not directly related to the restoration of service. They are in the nature of risk, which the Company is compensated for through the rate of return on equity. These types of business risks should not be compensated for through the storm recovery. Accordingly, the 2005 storm costs should be reduced by \$3,582,000 to remove the estimated uncollectible accounts included in the storm recovery request. See also issue 17(d). (Larkin)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. FPL removed capital costs at "normal cost" and recorded them to rate base. What is left after adjusting for insurance recoveries represents the operations and maintenance expenses the Company has incurred to restore service to its customers. No adjustments should be made. (Davis)

OPC: No. The capital portion total 2005 storm cost has increased from the original estimated amount of \$63,855,000 to \$66,819,000. This additional \$2,964,000 offset to the 2005 storm recovery costs should be made to reflect the higher portion of storm costs anticipated to be capital related, which would not be recovered from the storm reserve. (DeRonne).

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 17: If the Commission applies in this docket the methodology applied in Order No. PSC-05-0937-FOF-EI should the Commission take into account:

- a. Amounts not recovered through base rates due to the disruption of service due to the 2005 storm season or the absence of customers after the storms;
- b. Overtime incurred by Company personnel in work areas not directly affected by the storm due to loss of some personnel to storm assignments (backfill work);
- c. Costs associated with work that must be postponed due to the urgency of storm restoration and accomplished after the restoration was completed (catch-up work);
- d. Uncollectible accounts receivable write-offs directly related to the storms;
- e. Incremental contractor, outside professional services and temporary labor costs due to work postponed due to the urgency of storm restoration and accomplished after the restoration was completed;
- f. Costs that would have otherwise been charged to clauses; and
- g. Costs that would have otherwise been charged to capital.
- h. Vacation Buy-Backs;
- i. Nuclear Payroll Expected to be Recovered Through Insurance

POSITION:

FPL: If FPL's actual cost method, with the capital adjustment proposed by FPL, is approved by the Commission, it is unnecessary to separately take into account items (a) through (i).

If the Commission's Modified Incremental Cost Approach approved in the 2004 Storm Cost Recovery Order, No. PSC-05-0937-FOF-EI is approved by the Commission, then items (a) through (i) should be considered by the Commission. Specifically, as to (a) through (i) under the Modified Incremental Cost Approach in the 2004 Storm Cost Recovery order, there are various adjustments made to the amount of storm costs that can be recovered based on an assumption that such costs were already recovered through base rates (with which assumption FPL does not agree). Under the Commission's 2004 Storm Cost Recovery Order approach, these various adjustments were offset by other incremental costs and by amounts not recovered through base rates, but only up to the amount of the adjustments. Amounts not recovered through base rates in excess of the adjustments were not recovered, causing the Company to suffer a loss in base revenues greater than the offset permitted by the Commission, which it was not permitted (nor did FPL request) to recover. It should be noted that the Modified Incremental Cost Approach approved in the 2004 Storm Cost Recovery Order, Order No. PSC-05-0937-FOF-EI would result in the same amount of storm recovery in this proceeding as FPL's actual cost method, with a normal capital adjustment. (Davis, Gower)

Therefore, if the Commission determines an incremental cost approach is appropriate, the following should be taken into account:

a. As previously stated, if one were to utilize an incremental cost approach, under which adjustments are based on the theory that certain storm restoration costs have already been recovered through base rates, then base revenues not achieved due to service interruptions from hurricanes must be considered, as they were in the 2004 Storm Cost Recovery Order. FPL's base revenues not achieved due to the 2005 hurricanes were \$51,354,000.

b. Incremental backfill costs of \$0.8 million represents incremental overtime and contractor costs that were incurred because employees who would normally perform this work were unavailable because of storm restoration activities. Since these are incremental costs that would not have otherwise been incurred in the absence of the 2005 storms, they are not being recovered in base rates. These costs are also not being charged to the storm reserve by FPL. Under the 2004 Storm Cost Recovery Order approach, an adjustment for the backfill work is appropriate since, otherwise, there would be no cost recovery for these incremental storm related costs.

c. Catch-up work of \$7.8 million represents normal operation and maintenance work that had to be postponed due to storm restoration activities. The catch-up work impacts normal, ongoing post-storm operations until the catch-up work is completed, either through additional overtime hours or additional contractor work. Since these costs are also incremental costs that would not have been incurred in the absence of 2005 storms, they are not being recovered in base rates. These costs are also not being charged to the storm reserve by FPL. Like backfill, under the 2004 Storm Cost Recovery Order approach, an adjustment is justified since, otherwise, there would be no cost recovery of these incremental storm related costs.

d. Since FPL mobilizes a large portion of its workforce to restore service to customers as quickly and safely as possible, a majority of the resources that would be utilized to mitigate uncollectible bills are reassigned to storm restoration. Base rates assume that these mitigation efforts are in place and are working. Therefore, delinquent customers receive additional days to pay and if they do not ultimately pay, the amount of uncollectible write-off expense becomes higher as a direct result of hurricane activity. Again, but for the restoration effort resulting from the storms, these additional costs would not have been incurred. Therefore, uncollectible accounts expense directly related to the 2005 storms of \$3.6 million should be allowed to be recovered, consistent with the reasoning of the 2004 Storm Cost Recovery Order, if that Order's methodology is adopted.

e. See response provided for part c.

f. Regular payroll charged to the storm reserve that would have ordinarily been charged to clauses of \$2.7 million should be allowed to be recovered through the storm reserve since they are not being recovered through a cost recovery clause or through base rates. Simply stated, they are not being recovered twice from customers and, therefore, should not be disallowed under the incremental cost methodology.

g. Regular payroll charged to the storm reserve that would have ordinarily been charged to capital of \$8.0 million should be allowed to be recovered through the storm reserve since they are not being recovered through base rates. Normal payroll, i.e. regular payroll, has a capital component and the assumption that all regular payroll charged to storm is related to operations and maintenance work is incorrect. It includes payroll dollars for employees that under normal working conditions would charge their time, or a portion of their time, to capital projects. Therefore, these costs should not be disallowed if the 2004 Storm Cost Recovery Order methodology is adopted.

h. FPL purchased \$1.2 million of vacation from employees involved in the 2005 storm restoration activities since they were unable to take advantage of their earned vacation due to the timing and length of storm restoration efforts.

Hurricane Wilma caused severe damage to FPL's service territory on October 24, 2005 and many employees worked through November to make repairs to FPL's damaged infrastructure. As such, they were unable to take all the vacation they were entitled to and normal workloads will not enable employees to take these days in the future. Thus, customers benefited from having these employees perform storm restoration duties instead of taking vacation, and compensation for the value of the vacation time should be permitted if the 2004 Storm Cost Recovery Order methodology is adopted.

i. Under the 2004 Storm Cost Recovery Order methodology, nuclear payroll expected to be recovered through insurance of \$2.5 million should not be included in the regular payroll adjustment. This is because these amounts are already removed through the adjustment for amounts expected to be recovered through insurance. If the amounts are additionally removed through a payroll adjustment, this would result in the amounts being subtracted twice from the total amount of 2005 storm costs to be recovered, which would be unfair and incorrect under the 2004 Storm Cost Order methodology. (Davis, Green, Morley)

OPC:

a. No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers.

Amounts not recovered through base rates due to the disruption of service from storms are clearly FPL's veiled attempt to recover lost revenues. Lost revenues are not a cost of restoring service. There is no expenditure of funds or outflow of cash represented and FPL's presentation is merely a calculated number based on estimates of possible sales during the storm outage period. While it is reasonable to assume that the Company could have billed customers during this period but for the storm outage, it is not reasonable to assume that these revenues are linked to, or result from, restoring service to customers. Further, while the Company's overall sales were less than estimated for all of 2005, the decline was apparently caused by other weather issues, not hurricane related outages. It is not uncommon for revenues to be over or under forecast for a variety of weather-related or economic factors during any given year.

If FPL was allowed recovery of lost revenues, shareholder risk would be shifted to ratepayers without a reduction in FPL's authorized return on equity included in base rates. Thus, FPL's argument that \$51 million in lost revenues should be used as an offset to the incremental approach to storm recovery should be rejected. (Larkin)

b. No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. Backfill work is part of daily utility operations and maintenance of the Company's system and are included as part of base rates. These costs are not extraordinary, nor related to storm recovery and as such should not be used as an

offset in the incremental approach to storm reserve accounting or recovery. (Larkin)

c. No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. Catch-up is part of daily utility operations and maintenance of the Company's system and are included as part of base rates. These costs are not extraordinary, nor related to storm recovery and as such should not be used as an offset in the incremental approach to storm reserve accounting or recovery. (Larkin)

d. No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. It would be difficult, if not impossible, to relate uncollectible accounts directly to the effects of a storm. Even if it could be done, these expenses are not directly related to the restoration of service. They are in the nature of risk, which the Company is compensated for through the rate of return on equity. These types of business risks should not be compensated for through the storm recovery. Accordingly, the 2005 storm costs should be reduced by \$3,582,000 to remove the estimated uncollectible accounts included in the storm recovery request. (Larkin)

e. No. Only those costs that are directly related to restoring facilities should be included in the storm restoration cost accruals and recovered from ratepayers. These costs are similar to those described as catch-up work, which is part of daily utility operations and maintenance of the Company's system and included as part of base rates. These costs are not extraordinary, nor related to storm recovery and as such should not be used as an offset in the incremental approach to storm reserve accounting or recovery. (Larkin)

f. The Citizens agree that these costs should be offset against the regular salaries removed from the 2005 storm recovery costs. (DeRonne)

g. The Citizens agree that these costs should be offset against the regular salaries removed from the 2005 storm recovery costs. (DeRonne)

h. Vacation Buy-Backs are generated by the Company's vacation policy and not as a direct result of storm restoration activities. FPL could have changed its carryover policy and allowed employees to carryover any and all vacation which could not be taken in 2005. Instead, the Company chose to limit the carryover hours to 120 and reimburse employees for any vacation which could not be taken in 2005. FPL did not include these costs in its requested storm recovery costs and instead have included them as an offset to any disallowances provided by the incremental approach to storm recovery. These amounts should not be included in the storm reserve nor used as an offset to adjustments made as a result of the incremental approach. (Larkin)

i. In FPL's Incremental Cost Approach adjustment it includes a \$2,490,800 offset to the regular employee salaries for nuclear payroll costs that it already removed from the 2005 estimated storm recovery costs in the adjustment to remove the estimated insurance proceeds. If this adjustment is reflected, FPL would recover the associated amount twice, once from insurers and again from ratepayers. Therefore, this offset is inappropriate. (DeRonne)

FIPUG:

a. No. The evidence discloses that during the storm period, FPL sold more electricity to retail customers than it anticipated it would sell according to documents filed in Docket No. 050001-EI. The estimated sales provided enough money to meet ordinary O&M expenses. In calculating retail revenues, the revenues from all retail customers is the controlling factor, not the revenues received from a relatively small number of customers who FPL was unable to serve during the period of storm restoration. FIPUG also agrees with OPC.

b. – i. Agree with OPC.

FRF:

a. 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. 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. 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. 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. 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. Agree with OPC.

g. Agree with OPC.

h. 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. Agree with OPC that this offset proposed by FPL is inappropriate.

AARP: The same as the Office of Public Counsel.

FEA: **a. – i.** Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. Only landscaping restoration costs necessary to comply with local land use and zoning requirements have been charged to the reserve. Failure to comply with code requirements would result in local jurisdictions initiating code enforcement actions. (Davis)

OPC: No. Landscaping that is not required by local zoning ordinances should not be included in the storm reserve.

FIPUG: Agree with OPC.

FRF: No.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. Litigation and settlement costs that are directly related to 2005 storm restoration have been charged to the storm reserve. But for the 2005 storms, these costs would have not been incurred. Further, FPL is legally obligated to indemnify and hold harmless foreign crews against claims which are brought as a result of their providing assistance to FPL. (Davis)

OPC: No. FPL has included \$2,849,571 for estimated property damage and personal injury costs for 2005 storm costs. These are not costs directly related to the storm recovery efforts or for the restoration of electric service to customers and should not be included in the costs to be recovered. Additionally, these types of costs are already considered in the determination of base rates and should not be recovered via the recovery of storm restoration costs. (DeRonne).

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. FPL included contingencies in the 2005 storm cost estimate consistent with its standard project management practices. Contingencies formally recognize uncertainty concerning such factors as scope of work, material costs, contractor availability and pricing, or the length of time for completion. Any unused contingency will be reflected in the true-up process proposed by FPL. The only

remaining contingency for 2005 storm costs is \$7,478,495. No adjustments should be made. (Davis)

OPC: No. The \$26.25 million of remaining contingencies as of the end of February 2006 should be removed from the storm cost estimates. If the amounts included in the storm reserve are over-estimated, the ratepayers will be locked in to paying higher amounts over the next twelve years under FPL's proposal. Moreover, FPL is treating upward adjustments to estimated "contingencies" as a way of maintaining its request at the level of its original petition, instead of lowering that request as actual figures come in below original estimates. FPL thus appears to regard the original request as a target that it wants to hit even if actual damages prove to be less than the estimate. FPL's premise, which is that if the costs are overestimated as a result of escalating contingency estimates, they will be true-up and serve to increase the available reserve funds for future storms, is not reasonable. The estimates in FPL's petition were a starting point subject to adjustments based on actual figures, not an entitlement. The Commission should exclude the remaining contingencies. (DeRonne)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. There should be a final true-up when all work has been completed and all costs are known.

OPC: Yes. FPL should be required to true-up the actual costs incurred and not continue to increase the amount of contingency costs as a plug amount to keep the storm cost equal to the original amount requested or to the estimated amount approved by the Commission. A cut-off date of December 31, 2006 should be established for charging 2005 storm restoration costs to the reserve. It is not appropriate to

allow an indefinite period for charging costs associated with the 2005 storms to the reserve. Thus, any projects for which physical construction has not commenced as of December 31, 2006 should be charged to base rates, not the storm reserve. (DeRonne)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. An estimate has been appropriately charged to the reserve. A survey to determine the actual amount of non-FPL poles replaced by FPL in 2005 is expected to be completed in May 2006, based on which FPL will bill other entities. Reimbursements will result in appropriate credits to the storm reserve. FPL has estimated the amount to be billed. However, FPL recommends that the actual amount be reflected in the final true-up. (Williams, Davis)

OPC: Yes. However, FPL has not yet billed the outside parties for the repairs or replacements, nor did it include an estimate to offset the storm recovery costs it has requested in this case. FPL's requested 2005 storm recovery cost estimate includes many estimates which increase the projected cost, but does not include estimated offsets to such costs, other than for insurance recoveries. The 2005 storm costs should be reduced by a minimum of \$7,923,288 to reflect an estimate of the amounts billed to other parties. This represents a placeholder adjustment of 75% of the estimate provided by FPL witness Williams of \$10,564,384 to provide for an offset for capital costs. Further, a review should be conducted once the actual amounts are trued-up to ensure that the billings to outside parties for FPL's repair and replacement of poles owned by others is based on the actual costs incurred by FPL. (DeRonne)

FIPUG: Agree with OPC.

FRF: Yes. 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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 23: **WITHDRAWN**

ISSUE 24: **Has FPL charged any other costs to the storm reserve that should be expensed or capitalized? If so, what adjustment should be made?**

POSITION:

FPL: No. (Davis)

OPC: Yes. Additional adjustments should be made to the requested 2005 storm costs as described below:

Employee Assistance Costs: Costs provided to assist FPL employees to secure their personal damaged property should be removed. These are employee benefit costs and are not directly related to restoring FPL facilities. FPL employees are no different from other non-utility emergency workers that have to restore their own property and ratepayers should not bear these costs. Accordingly, 2005 storm costs should be reduced by \$245,025. (Larkin)

Repair Costs Under Warranty: FPL has included an estimated \$316,250 for a cooling tower fan repair at Martin Unit 8 even though a warranty claim is being pursued. Although the estimated amounts charged to the reserve will be trued-up to actual as the amounts become known, it is not appropriate to include such costs in the estimates. To potentially inflate the estimated storm costs under the premise that it will be trued-up later is a veiled attempt to increase the amount provided in

the reserve even more than the \$650 million replenishment already requested.
(DeRonne)

FIPUG: The Commission should make an adjustment to offset FPL's storm damage costs by the proceeds received from assisting other utilities with storm restoration since 2003. In the future, FPL should credit such revenues to the storm damage reserve. Agree with OPC as to any other adjustments.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: The appropriate amount of 2005 storm related costs to be charged against the storm reserve, subject to a determination of prudence in this proceeding, is \$816,016,000 (rounded) (provided on KMD-4).

OPC: This is a fall-out issue.

FIPUG: Agree with OPC.

FRF: Fall-out issue.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Consistent with its approach to 2004 storm costs, FPL has charged the full amount of its storm costs to the reserve as of March 31, 2006, including an estimate for uncompleted work. When all work has been completed and final costs are known, a final true-up should be performed. (Davis, Williams)

OPC: The Commission should order that only projects that have been identified in this docket and physical construction has begun on or before December 31, 2006 should be allowed to be charged to the storm reserve for 2005 storm costs. (DeRonne)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: Yes. FPL's pole inspection and maintenance program was reasonable, and produced excellent results. For example, because of FPL's programs, pole related outages during non-storm events have been negligible for over a decade, contributing to approximately 0.1% of all outages annually. Pole performance during the 2004 and 2005 storm seasons also shows that FPL's pole infrastructure

maintenance program is reasonable, and has produced excellent results. Even though FPL's entire pole infrastructure has been impacted by one or more of the seven hurricanes that affected FPL's service territory in the last two years, FPL has had to replace less than 1% of its poles in each of those years. (Williams, Brown, Jaindl)

OPC:

No. With respect to wood distribution poles, overall FPL's measures prior to Wilma were inadequate. In 1991, to reduce costs FPL eliminated the pole inspection program it had begun in the early 1980's. FPL implemented its "Osmose program" in 1999, but, while each inspection performed by Osmose is detailed and thorough (sounding, excavating, boring), the program is extremely limited, both in terms of geographical area and in the number of inspections (less than 1% of FPL's poles annually) conducted. The other pre-Wilma programs described by FPL (visual inspections of feeders performed by Thermovision crews, limited to spotting of obvious exterior damage, and hazard assessments by workmen designed to verify that a task can be performed safely) do not amount to a true and effective pole inspection and maintenance program. Adjustments are appropriate to reflect FPL's failure to conduct an adequate pole inspection program, resulting in a higher level of pole and conductor replacements from the storm than would otherwise be the case. Mr. Byerley is recommending a pole replacement disallowance of \$12,000,000 and a conductor replacement disallowance of \$10,600,000 as a result of the inadequate pole inspection program. With respect to the costs that FPL seeks to recover through a surcharge or through securitization in this docket, because FPL agrees the normal capital costs associated with replacements should be removed from the restoration costs charged to the storm reserve, and because Mr. Byerley estimates FPL incurred costs 4 times greater than normal because of storm conditions, these amounts should be reduced to reflect the offset for the estimated 25% of capital related costs of \$3,000,000 for the pole replacement costs (\$12 M x 25%) and \$2,650,000 for the conductor replacements (\$10.6 M x 25%). However, because the "normal" capital costs also were the result of imprudence in the form of inadequate maintenance, plant in service also should be reduced by the capital related costs to ensure that ratepayers are not charged for these costs at the time of the next rate case. (Byerley)

FIPUG:

Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. The reasonableness of FPL's approach to managing vegetation is supported by excellent vegetation management operating results demonstrating improved performance over time. For example, vegetation-related outages decreased 21% in 2004 and another 31% in 2005. As a result, vegetation-related outages in 2005 were 45% lower than in 2003 and 14% lower than in 1999. This performance has been achieved despite some difficult challenges. Tree density (trees per mile) in FPL's service territory is twice the national average. Additionally, Florida's climate and twelve month growing season result in some of the highest tree re-growth rates in the nation. Moreover, FPL's vegetation management program is an important component of FPL's overall maintenance and reliability program, which has achieved excellent results. FPL's SAIDI, the most relevant reliability indicator for customers since it encompasses both the average frequency and average duration of outages, compares favorably within the state and ranks in the top quartile nationally – a level of performance that could only be achieved with an effective vegetation management program. (Williams, Brown, Jaindl)

OPC: No. Based on a review of past FPL distribution reliability reports, past vegetation management policies and budgets, and FPL's own assessments of preventable tree-related damage, OPC witness James Byerley concludes that FPL's pre-storm vegetation maintenance measures were inadequate. Mr. Byerley is recommending a pole replacement disallowance of \$6,040,000 and a conductor replacement disallowance of \$5,310,000 as a result of FPL's inadequate tree trimming program. The 2005 storm replacement costs should be reduced by \$6,040,000 and \$5,310,000, for the pole and conductor replacements, respectively. Because Mr. Byerley believes FPL incurred replacement costs that were at least 4 times greater than "normal" because of storm conditions, and because normal capital costs should not be charged to the storm reserve account, these amounts should be reduced to reflect the offset of the estimated 25% of capital related costs of \$1,510,000 for the pole replacement costs (\$6.04M x 25%)

and \$1,327,500 for the conductor replacements (\$5.31M x 25%). In addition, because these "normal" capital costs were the result of imprudence in the form of an inadequate vegetation management program, plant in service also should be reduced by these capital related costs to ensure that ratepayers are not charged for these costs at the time of the next rate case.

Pole Replacement Disallowance for Inadequate Tree Trimming (\$6,040,000); Pole Replacement Disallowance for Inadequate Tree Trimming - Capital Offset (25%) \$1,510,000; Conductor Replacement Disallowance for Inadequate Tree Trimming (\$5,310,000); Conductor Replacement Disallowance for Inadequate Tree Trimming - Capital Offset (25%) \$1,327,500. (Byerley)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 29: WITHDRAWN

ISSUE 30: **Did FPL adequately inspect and maintain its distribution and transmission system for deterioration and overloading of poles prior to October 23, 2005? If not, what amount, if any, should be adjusted from the costs that FPL proposes to charge to the storm reserve and recover through securitization or a surcharge?**

POSITION:

FPL: Yes. FPL's pole inspection and maintenance program was reasonable, and produced excellent results. FPL follows the National Electrical Safety Code with respect to pole loading, and no witness has testified to any alleged overloading of poles. For example, because of FPL's programs, pole related outages during non-

storm event have been negligible for over a decade, contributing to approximately 0.1% of all outages annually. Pole performance during the 2004 and 2005 storm seasons also shows that FPL's pole infrastructure maintenance program is reasonable, and has produced excellent results. Even though FPL's entire pole infrastructure has been impacted by one or more of the 7 hurricanes that affected FPL's service territory in the last two years, FPL has had to replace less than 1% of its poles in each of those years. (Williams, Brown, Jaindl)

OPC: See Citizens' position on issue 29.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. The reasonableness of FPL's approach to managing vegetation is supported by excellent vegetation management operating results demonstrating improved performance over time. For example, tree-related outages (non-hurricane) in 2004 were 21% lower than 2003 and in 2005 were 31% lower than in 2004. In 2005, they were lower than any year in 5 previous years by 15%-45%. Furthermore, even though FPL's service territory consists of fast growing and dense vegetation, in 2004, FPL's vegetation outages, as a percent of total outages, is better than the national average (14% vs. 16%). Finally, during 1999-2005,

overall reliability has improved and compares very favorably on a state and national basis, reinforcing the conclusion that vegetation management, which is an important part of overall electric reliability, has been reasonably managed. (Williams, Brown, Jaindl)

OPC: See Citizens' position on Issue 28.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 32: **WITHDRAWN**

ISSUE 33: **What adjustment, if any, should the Commission make associated with the failure of 30 transmission towers of the 500 KV Conservation-Corbett transmission line and the failure of six structures on the Alva-Corbett 230 transmission line?**

POSITION:

FPL: None. FPL's actions in building, inspecting and maintaining the Conservation-Corbett 500 kV transmission line were reasonable based upon the information available to FPL at the time. In 1998, FPL experienced an insulator failure on this line. In the course of investigating the insulator failure, FPL discovered loose and missing bolts on certain of the line's transmission tower structures. With the help of recognized experts and the supplier of the original vibration damping system, FPL evaluated the conductor vibration, found that it was excessive, and installed improved dampers that reduced the vibration to within industry standard

levels. As part of this evaluation, FPL concluded that the cause of the loose and missing bolts was the excessive conductor vibration and reasonably expected the vibration reduction to eliminate the cause of the bolt loosening. Over the period from 1999 to 2003, FPL conducted several detailed inspections of Conservation-Corbett transmission tower structures, which identified essentially no further loose or missing bolts and hence served to confirm FPL's expectation that the loose and missing bolts had been caused by the excessive conductor vibration and that the problem had been resolved. The damage to transmission tower structures on the Alva-Corbett 230 kV line was the direct consequence of collapse of the Conservation - Corbett structures. (Brown, Jaindl)

OPC: FPL discovered in 1998 that bolts on the cross-braces that are the source of the structural integrity of the Conservation-Corbett transmission towers were loose and/or missing on 31 towers. FPL's actions in 1998 to remedy the situation were inadequate, given the serious nature of the problem. FPL also failed to record the problem in the "asset management system" records that form the basis for its inspections, and thereafter failed to inspect the towers with a frequency and scope that was commensurate with the seriousness of the loose bolt problem. FPL, must therefore bear the responsibility for the failure of the Conservation-Corbett line, and FPL, not its customers, must bear the costs of repairing the line. The costs of repairs to the Conservation-Corbett transmission line repairs should not be included in the projected storm costs or in FPL's rate base. Accordingly, \$10,411,000 should be removed from both the total projected storm restoration costs and from the capital cost offset, resulting in a net impact to the 2005 storm recovery costs of \$0. The final order in this docket should specifically indicate that these costs are being disallowed and should not be included in plant in service; otherwise, ratepayers will pay for these costs, which the OPC believes to be imprudent.

In addition, the Alva-Corbett line failed because falling structures of the Conservation-Corbett line impacted the Alva-Corbett line, sending a dynamic shock that caused structures distant from the point of impact to fail. As the cause of the Alva-Corbett failure must be attributed to the same factors that led to the failure of Conservation-Corbett, all costs of repairing Alva-Corbett should be removed from the amounts charged to customers. (Byerley)

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. Section 366.8260(1)(n) expressly provides that “[s]torm-recovery costs shall include the costs to finance any deficiency or deficiencies in storm-recovery reserves until such time as storm-recovery bonds are issued...” The jurisdictional amount of un-recovered pre-tax 2005 storm-recovery costs proposed by FPL includes monthly interest at the commercial paper rate, consistent with the method approved by the Commission in the 2004 Storm Cost Recovery Order, Order No. PSC-05-0937-FOF-EI. (Davis)

OPC: FPL should only be allowed to accrue and collect interest on the actual amount of storm costs incurred less the adjustments made in this proceeding. Interest should not be accrued on any estimated amounts or contingency costs. The accrual of interest should begin in November, 2005 and cease when the first bonds are issued. The interest rate should be applied at the pre-tax commercial paper rate for each month.

FIPUG: Agree with OPC.

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).

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: No. FPL is regulated on a cost-of-service basis. Such costs are a part of the costs to provide electric service and are not recovered in base rates. Accordingly, all such costs should be recovered in this proceeding. Requiring FPL to bear a portion of reasonable and prudently-incurred costs would be inconsistent with Florida regulatory law and policy and would require the Commission to unwind the 2005 Stipulation and Settlement Agreement. (Dewhurst)

OPC: No position.

FIPUG: In general, FIPUG supports reasonable risk/reward sharing between utilities and their customers. In the as-of-yet undocketed storm damage rule review, FIPUG argued that the Commission should adopt the approach discussed in the testimony of Staff witness Joseph D. Jenkins. Nevertheless, in the settlement agreement in FPL's last base rate case (Docket 050045-EI), the parties agreed that for the period of the agreement FPL "will be permitted to recover prudently incurred costs associated with events covered by Account No. 228.1 [the storm damage account]. . . ." FIPUG is bound by that agreement in this case to the extent that storm costs are prudent and do not constitute a double recovery.

FRF: Understanding this issue to address the possible sharing of costs that are determined by the Commission to be reasonable and prudent costs, the FRF's position is "No position."

AARP: Same position as FIPUG.

FEA: Agree with FIPUG.

AG: No position at this time.

STAFF: No position at this time.

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?

POSITION:

FPL: The amount of reasonable and prudently incurred 2005 storm related costs that should be recovered from customers is \$816,016,000 (rounded) (provided on

KMD-4) plus interest in accordance with Florida Statute Section 366.8260 in the amount of \$11,490,000 for a total of \$827,507,000. (Davis) (provided in KMD-4).

OPC: Based on the testimony of OPC witnesses Larkin, DeRonne and Byerley, the appropriate amount of 2005 storm costs should be \$701,570,380 on a system basis and \$701,016,139 on a jurisdictional basis. The final amount is subject to the resolution of other issues.

FIPUG: The appropriate amount of adjustments should be the total of OPC's proposed adjustments.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: FPL believes that establishing a storm damage reserve level of approximately \$650 million is reasonable at this time. (Dewhurst, Harris)

OPC: The Commission should approve a reserve that meets the historically-stated threshold of covering the costs of most, if not all, storms. The appropriate level of funding for the storm reserve should be \$150 million. However, based on the projected increase in hurricane activity, the Commission could reasonably include a "safety margin" raising the approved reserve to \$200 million. (Stewart)

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: FPL proposes a funded Reserve of \$650 million, and that the Reserve should be used for all of the purposes provided for in and consistent with Rule 25-6.0143, Florida Administrative Code for Account No. 228.1, Accumulated Provision for Property Insurance. (Dewhurst, Davis)

OPC: Once the reserve regains a positive balance, the reserve should continue to be held in a funded account with the interest earned accruing to the benefit of the ratepayers.

Pursuant to sections 366.8260(1)(j), (k), and (n), Florida Statutes, funds obtained through securitization may be used only to finance storm-recovery costs incurred or that will be incurred by an electric utility in undertaking storm-recovery activity cause by storms. Storms are defined as named tropical storms or hurricanes that occurred during calendar year 2004 or thereafter. Funds obtained through securitization must therefore be restricted to storm recovery activities caused by named tropical storms or hurricanes.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: Yes. A primary benefit of storm-recovery bonds is the ability to immediately replenish the Reserve and to “smooth out” the rate impact of an extreme sub-period of storm activity, making it a useful tool for recovery of existing deficits and replenishment of the reserve. (Dewhurst, Morley, Harris).

OPC: Yes, but only if the Commission takes an active role in the bond issuance process and does not approve FPL’s proposed methodology which is not reasonably expected to result in the lowest overall costs for securitization. To ensure that the issuance of storm-recovery bonds results in the lowest overall cost to ratepayers compared with the alternative methods of financing, the “best practices” outlined in Commission staff witness Fichera’s direct testimony should be adopted. These “best practices” include active participation by the Commission, its staff, and financial advisors in the bond issuance process which ensures that the ratepayers have protection.

FIPUG: Agree with OPC.

FRF: No position.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 40: WITHDRAWN

ISSUE 41: Should the unamortized balance of 2004 storm costs continue to be recovered through the current surcharge or should the balance be added to any amounts to be securitized?

POSITION:

FPL: FPL's primary recommendation is that the unamortized balance of 2004 storm costs be added to any amounts to be securitized, so as to enhance the rate impact "smoothing" benefit of issuing bonds. (Dewhurst, Morley, Olson)

OPC: After the reduction \$51,396,811 to reflect the true-up for actual 2004 storm costs and the disallowances of unauthorized costs, corresponding reductions to the amount of interest accrued based on actual not estimated storm and interest costs incurred, and the most recently available revenue collections, the unamortized balance of the 2004 storm costs should be included in the securitized amount if the Commission approves securitization.

FIPUG: The unamortized balance of the 2004 storm costs should be added to the amounts to be securitized.

FRF: Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: The total amount of storm-related costs proposed for storm-recovery financing is \$1.7 billion, which includes the proposed \$650 million replenishment of the Reserve. (Dewhurst, Davis) (provided on Document No. KMD-2)

OPC: Based on the resolution of the preceding issues in accordance with the recommended adjustments advocated by the Citizens, FPL's requested storm-related costs of \$1,690,160,000 should be reduced by \$615,842,431. In addition, the storm-related costs should be reduced by the amount of interest related to the adjustments recommended and to reflect that interest should only be calculated on the actual amounts incurred not on estimated costs. The amount to be securitized should also be reduced to remove the income taxes associated with the total storm-related costs to be recovered.

FIPUG: The appropriate amount to be securitized should be based on the following: (1) the recovery of the unamortized balance of the 2004 storm costs; (2) the replenishment of the storm reserve to \$150 million, and; (3) the recovery of FPL's 2005 storm costs minus OPC's proposed adjustments.

FRF: Based on resolution of the preceding issues, if the Commission approves securitization, FPL's requested storm-related costs of \$1,690,160,000 should be reduced by at least \$665,842,431, and further reduced to reflect any penalties or other adjustments determined to be appropriate by the Commission.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: The total amount of storm-related costs proposed for recovery through a traditional surcharge or other form of recovery is \$1.7 billion, which includes the proposed \$650 million replenishment of the Reserve. If the 2004 Storm Surcharge is continued, the recovery amount in this proceeding should be reduced accordingly. (Dewhurst, Davis)

OPC: Based on the resolution of the preceding issues in accordance with the recommended adjustments advocated by Citizens, no amount should continue to be collected through a surcharge or other form of recovery if the Commission approves the securitization methodology set forth in the "best practices" standard.

FIPUG: The Commission should approve recovery via securitization. However, if the Commission approves recovery via a surcharge, the surcharge should be designed to recover the following: (1) the replenishment of the storm reserve to \$150 million and; (2) the recovery of FPL's 2005 storm costs minus OPC's proposed adjustments.

FRF: Based on resolution of the preceding issues, if the Commission approves recovery through traditional surcharges or another form of recovery, FPL's requested

storm-related costs of \$1,690,160,000 should be reduced by at least \$665,842,431, and further reduced to reflect any penalties or other adjustments determined to be appropriate by the Commission.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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.**

POSITION:

FPL: In the event that the Commission decides not to approve the requested storm-cost financing, the Commission should grant FPL's alternative request, as detailed in Dr. Rosemary Morley's testimony. (Dewhurst, Davis). If the alternative request is approved, then the allocation of costs to the rate classes should be consistent with the manner in which equivalent costs were treated in the last filed cost of service study as provided by FPL in Document Nos. RM-4 and RM-05. (Morley)

OPC: Based on the resolution of the preceding issues in accordance with the recommended adjustments advocated by Citizens, no amount should continue to be collected through a surcharge or other form of recovery if the Commission approves the securitization methodology set forth in the "best practices" standard.

FIPUG: The Commission should approve recovery via securitization. However, if the Commission approves recovery via a surcharge, the surcharge should be designed to recover the following: (1) the replenishment of the storm reserve to \$150 million, and; (2) the recovery of FPL's 2005 storm costs minus OPC's proposed adjustments. With respect to allocating costs between customer classes, FIPUG endorses the approach that matches revenue collections to storm costs incurred — that is, customers taking service from the transmission system should not be charged for damages to the distribution system. These costs should be allocated

based on the cost of service methodology last filed with and approved by the Commission in Docket No. 830465-EI.

- FRF:** No position.
- AARP:** The same as the Office of Public Counsel.
- FEA:** Agree with FIPUG.
- AG:** Adopt same position as OPC.
- STAFF:** No position at this time.

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?

POSITION:

- FPL:** No adjustment is necessary since FPL would calculate interest on the storm costs to be recovered on an after-tax commercial paper rate basis.
- OPC:** The deferred tax liability should be used to offset the carrying costs allowed to be recovered through the interest expense on the actual amount of 2005 storm recovery costs after reductions have been made consistent with the Citizens' positions.
- FIPUG:** At 2005 year end, the FPL Deferred Tax Balance was slightly over \$2 billion. The account provided 17.32% cost free capital in FPL's AFUDC rate that is added to CWIP. KMD-9 shows the deferred tax balance changes monthly. For the benefit of future customers, the Commission should order FPL to adjust the monthly AFUDC rate to reflect the changes in the deferred tax balance resulting from the storm charge. RM-11 shows that 26% of the proposed storm surcharge is for the purpose of paying current taxes on the funds collected to service the \$1 billion (more or less) in new storm bonds FPL proposes to issue. The Commission can protect current customers by ordering FPL to use part of the deferred tax account to pay current taxes. [FIPUG cannot agree to drop Issue 45 at this time]

- FRF:** Agree with OPC.
- AARP:** The same as the Office of Public Counsel.
- FEA:** Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. Section 366.8260(1)(e)(1) defines “financing costs” to include “any income taxes resulting from the collection of storm-recovery charges in any such case whether paid, payable, or accrued. (Davis)

OPC: No position.

FIPUG: Yes, but the storm reserve account balance should reflect the total sum collected from customers for the reserve via the Storm Bond Repayment Charge and the Storm Bond Tax Charge.

FRF: Yes.

AARP: Same position as FIPUG.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. Recovery of taxes is provided for in Section 366.8260, Florida Statutes, and is an integral part of recovery of storm costs. (Davis, Olson)

OPC: No position.

FIPUG: Yes, but the storm reserve account balance should reflect the total sum collected from customers for the reserve via the Storm Bond Repayment Charge and the

Storm Bond Tax Charge. However, if storm recovery charges are not securitized, there is no need for an irrevocable financing order.

FRF: No. It would be inappropriate to include charges that are not part of the securitized amounts within the scope of an irrevocable financing order.

AARP: Same position as FIPUG.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: No. Under the servicing agreement, FPL commits to service the storm recovery property in material compliance with applicable law and regulations and using the same degree of care and diligence that it exercise with respect to the collection of its other charges. FPL's application and the proposed form of servicing agreement prohibits FPL from resigning as servicer unless FPL determines that it can no longer legally perform its services functions. FPL's billing and collection functions are subject to the regulatory oversight of the Commission, including the power of the Commission under Section 366.8260(15) of the Florida Statutes to subject FPL to "such penalties or remedies as the Commission determines are necessary." (Dewhurst)

OPC: Yes. FPL should indemnify ratepayers against an increase in the servicer fee to protect the ratepayers from any potential negligence, misconduct, or termination for cause by FPL since FPL is in the position to prevent such conduct by its own actions.

FIPUG: Yes.

FRF: Yes.

AARP: The same as the Office of Public Counsel.

FEA: Yes.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 49: WITHDRAWN

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

POSITION:

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as the initial servicer should be paid an annualized amount equal to 0.05% of the initial principal amount of the storm-recovery bonds. This rate is at the lower end of a range of such fees that have been approved in other utility securitizations, and attempting to track actual costs likely would not be cost effective. (Dewhurst, Olson)

OPC: The appropriate up-front and ongoing fee for FPL's role as the servicer throughout the term of the bond is the incremental cost to FPL for performing the servicer duties. FPL should be required to provide documentation to support its incremental cost which should be approved by the Commission. The difference between the servicing fee necessary to create an arms-length transaction and FPL's incremental costs should be used to increase the storm reserve available for recovery of future storm costs. (changed language) (strike "offset the amount of storm costs charged to the reserve.")

FIPUG: Agree with OPC.

FRF: Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as servicer should be permitted to recover the annual fees paid by the SPE to FPL under the servicing agreement, because requiring FPL to identify and account for these costs separately is likely to be more costly than any likely savings to the customer might be worth. If FPL is required to identify and account for actual costs, any excess of servicing fees collected over costs incurred should be credited to the storm damage reserve and any shortfall should be withdrawn from the storm damage reserve. (Dewhurst, Olson)

OPC: FPL should be permitted to collect from ratepayers the servicing fee that is necessary to establish an arms-length transaction for purpose of creating an independent SPE. However, FPL should be allowed to keep only its incremental costs for servicing the bonds. The difference between the servicing fee necessary to create an arms-length transaction and FPL's incremental costs should be used to increase the storm reserve available for recovery of future storm costs.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as Administrator should be paid an annual fee of \$125,000 plus expenses. This amount is reasonable and comparable to the administration fees paid in similar transactions. (Dewhurst, Olson)

OPC: The appropriate up-front and ongoing fee for FPL's role as the administrator throughout the term of the bond is the incremental costs to FPL for performing the administrator duties. FPL should be required to provide documentation to support

its incremental costs which should be approved by the Commission. The difference between the administrator fee necessary to create an arms-length transaction and FPL's incremental costs should be used to increase the storm reserve available for recovery of future storm costs.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: To obtain the requisite bankruptcy opinions, FPL must be paid an amount that is deemed to cover its actual costs. FPL as administrator should be permitted to recover the annual fees paid by the SPE to FPL under the administration agreement, because requiring FPL to identify and account for these costs separately is likely to be more costly than any likely savings to the customer might be worth. If FPL is required to identify and account for actual costs, any excess of administration fees collected over costs incurred should be credited to the storm damage reserve and any shortfall should be withdrawn from the storm damage. (Dewhurst, Olson)

OPC: FPL should be permitted to collect from ratepayers the administering fee that is necessary to establish an arms-length transaction for purpose of creating an independent SPE. However, FPL should be allowed to keep only its incremental costs for administering the bonds. The difference between the servicing fee necessary to create an arms-length transaction and FPL's incremental costs should be used to increase the storm reserve available for recovery of future storm costs.

FIPUG: Agree with OPC.

FRF: Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 54: **STIPULATED (See Section X.)**

ISSUE 55: **In the event any amounts remain in the Collection Account after all storm recovery bonds have been retired, what should be the disposition of these funds?**

POSITION:

FPL: Upon repayment in full of the Storm Bonds and all related financing costs, any remaining amounts held by the SPE (exclusive of the amounts in the capital subaccount, representing the equity contribution, and any interest earnings thereon) should be remitted to FPL and added to the Reserve if the amount is insignificant and the process of applying a credit to customer rates is not cost effective due to customer billing program changes. Otherwise, the amount would be applied as a credit to customer rates. (Davis)

OPC: The amounts should be reflected as a credit on each customer's bill as a refund allocated among customer classes in the same manner that the storm charges were collected.

FIPUG: The funds should be added to the storm reserve or refunded to FPL's customers.

FRF: Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: In accordance with Section 366.8260(2)(b)5., Florida Statutes, within 120 days after the bond issuance, FPL shall file supporting information on the actual upfront bond issuance costs. The Commission shall review such costs to determine compliance with Section 366.8260(2)(b)5., Florida Statutes; however, if FPL has selected the lowest cost qualified provider for bond issuance services as a result of competitive solicitation, FPL should be deemed to have satisfied the statutory standard. Actual upfront costs should also satisfy the statutory standard if they are substantiated by documentation and fall within the estimates submitted to Staff as part of the Preliminary Bond Structuring Information as described in FPLs proposed financing order. (Dewhurst, Olson)

OPC: The Commission should adopt the "best practices" standard through which the Commission is present and active in the bond issuance process to ensure the lowest overall costs to customers based on market conditions. The Commission's financial advisor should make an independent evaluation regarding lowest cost and that evaluation should be made available to the parties. If there is a dispute as to whether the lowest costs for the front costs were obtained based on the independent evaluation or other means, the matter should be brought before the Commission for resolution. If the Commission determines that the costs were overstated, the Commission should reduce the storm reserve for the difference or other remedy as is appropriate.

FIPUG: Agree with OPC.

FRF: If the Commission determines to approve securitization, then the Commission should adopt the "best practices" standards applicable to reviewing and approving issuance costs.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: FPL's testimony and exhibits provide support for the conclusion that FPL's estimated ongoing financing costs will be reasonable, and that they are consistent with similar rate reduction bond transactions. (Dewhurst, Davis, Olson)

OPC: The Commission should adopt the "best practices" standard through which the Commission is present and active in the bond issuance process to ensure the lowest overall costs to customers based on market conditions. The Commission's financial advisor should make an independent evaluation regarding lowest cost and that evaluation should be made available to the parties. If there is a dispute as to whether the lowest costs for the ongoing costs were obtained based on the independent evaluation or other means, the matter should be brought before the Commission for resolution. If the Commission determines that the costs were overstated, the Commission should credit the storm reserve for the difference or other remedy as is appropriate.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes, for the reasons explained with respect to Issue 56 above. (Dewhurst, Olson)

OPC: No. The process outlined by FPL in its petition, proposed order, and testimony, does not allow the active participation of the Commission. FPL's process does not afford independent protection for the ratepayers to ensure that the up-front costs, on-going costs, and interest rates achieve the lowest overall cost based on

real time market conditions. Therefore, FPL's proposed process is not reasonable and should not be approved.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: While the standard set in Section 366.8260(2)(b)5 does not apply to ongoing costs, FPL's testimony and exhibits provide support for the conclusion that FPL's estimated ongoing financing costs will be reasonable, and that they are consistent with similar rate reduction bond transactions. (Dewhurst, Davis, Olson)

OPC: No. The process outlined by FPL in its petition, proposed order, and testimony, does not allow the active participation of the Commission. FPL's process does not afford independent protection for the ratepayers to ensure that the up-front costs, on-going costs, and interest rates achieve the lowest overall cost based on real time market conditions. Therefore, FPL proposed process is not reasonable and should not be approved.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Normally an assessment of whether the bonds should be sold through a competitive bidding process or a negotiated sale would be made at or near the time of issuance based on factors such as issue size, complexity of issue, and current market conditions. Given the size of this offering, FPL believes the risk premium that underwriters would require in a competitive bidding process would likely be greater than the underwriting fee in a negotiated sale. Therefore, a negotiated sale is preferable under the circumstances. (Dewhurst, Olson)

OPC: The methodology that is employed should be that which produces the lowest overall cost based on real time market conditions.

FIPUG: Agree with OPC.

FRF: 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. If the Commission allows FPL the discretion, after the Commission issues its order in this case, to decide which sale mechanism to use, then any such decisions by FPL must be subject to review as to whether FPL's decisions (based on what FPL knew or should have known at the time, and in light of any recommendations made by the Commission's financial advisors) produced the lowest cost to ratepayers; such prudence issues should be addressed in subsequent proceedings, in which all substantially affected parties have a point of entry.

AARP: No position at this time.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: FPL prepared with the assistance of its outside bond counsel and financial advisor a draft order for the Commission's consideration which it submitted as Exhibit B to the Petition in this proceeding. FPL believes that entering the Financing Order in substantially the form submitted will best enhance the marketability of the bonds and help achieve the lowest cost. (Dewhurst, Olson).

OPC: No position at this time.

FIPUG: Staff witnesses have recommended criteria that will result in greater marketability and lower costs, these recommendations should be adopted, except the bonds cannot pledge the full faith and credit of the state or any local government.

FRF: The financing order should prescribe the ratepayer protections described in Staff witness Fichera's testimony, especially the provisions by which the Commission would be actively involved at all times and in all stages of the structuring, marketing, and pricing of the storm-recovery bonds.

AARP: No position at this time.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: FPL submitted in connection with its Petition a form of each of the Storm-Recovery Property Sale Agreement, the Administration Agreement, and the

Storm-Recovery Property Servicing Agreement, which set out in substantial detail certain terms and conditions relating to the transaction structure, including the proposed sale of the bondable storm-recovery property to the SPE, the administration of the SPE, and the servicing of the Storm Bond Repayment Charges and the storm-recovery bonds. FPL also submitted a form of the Indenture between the SPE and the indenture trustee, which sets forth the security and terms for the bonds, and a form of the Limited Liability Company Agreement with FPL as the sole member, which constitutes the organizing document of the SPE. The substance of the form of each of the agreements should be approved in connection with issuance of the financing order, which agreements would be executed substantially in the forms submitted to the Commission, subject to changes as part of the Staff Pre-Issuance Review Process set forth in FPL's form of financing order attached as Exhibit B to FPL's petition. FPL will submit forms of any legal opinions to be delivered in connection with the transaction that are requested by Commission Staff. Such documents and opinions shall be subject to such additions, deletions, and modifications as may be necessary to reflect the pricing, structure, and similar terms of the issuance of the Bonds and such other final terms as may be reasonably be left to negotiation prior to the proposed date for the launch of the sale of a series of bonds, including such final terms as may be required by the rating agencies, recent SEC reporting requirements and clerical changes. (Dewhurst, Olson)

OPC: Yes.

FIPUG: Agree with OPC.

FRF: Yes.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. FPL believes that the proposed Staff Pre-Issuance Review process will enable the Commission, through its Staff, to ensure that any issuance of bonds

pursuant to the Financing Order is in compliance with that Order. (Dewhurst, Olson)

OPC: No. The process outlined by FPL in its petition, proposed order, and testimony, does not allow the active participation of the Commission. FPL's process does not afford independent protection for the ratepayers to ensure that the up-front costs, on-going costs, and interest rates achieve the lowest overall cost based on real time market conditions. Therefore, FPL's proposed process is not reasonable and should not be approved.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: Yes. FPL submitted in connection with its Petition a form of each of the Storm-Recovery Property Sale Agreement, the Administration Agreement, and the Storm-Recovery Property Servicing Agreement, which set out in substantial detail certain terms and conditions relating to the transaction structure, including the proposed sale of the bondable storm-recovery property to the SPE, the administration of the SPE, and the servicing of the Storm Bond Repayment Charges and the storm-recovery bonds. FPL also submitted a form of the Indenture between the SPE and the indenture trustee, which sets forth the security and terms for the bonds, and a form of the Limited Liability Company Agreement with FPL as the sole member, which constitutes the organizing document of the SPE. The substance of the form of each of the agreements should be approved in connection with issuance of the financing order, which agreements would be

executed substantially in the forms submitted to the Commission, subject to changes as part of the Staff Pre-Issuance Review Process set forth in FPL's form of financing order attached as Exhibit B to FPL's petition. FPL will submit forms of any legal opinions to be delivered in connection with the transaction that are requested by Commission Staff. Such documents and opinions shall be subject to such additions, deletions, and modifications as may be necessary to reflect the pricing, structure, and similar terms of the issuance of the Bonds and such other final terms as may be reasonably be left to negotiation prior to the proposed date for the launch of the sale of a series of bonds, including such final terms as may be required by the rating agencies, recent SEC reporting requirements and clerical changes. (Dewhurst, Olson)

OPC: No position.

FIPUG: FIPUG supports the testimony of Staff witness Fichera.

FRF: It is difficult to state a position on this issue because of the inherent vagueness of the phrase "in substantially the form . . ." and because the Documents are subject to modifications in what is presently a draft financing order. In good faith, the FRF states the following position: If the Commission approves recovery through securitization, the Financing Documents should incorporate, to the extent applicable and practicable, the "best practices" and "financing order recommendations" set forth in Staff witness Fichera's testimony.

AARP: No position.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. The draft issuance advice letter will provide the most current and up-to-date information concerning the final terms and conditions that only becomes available as the launch date for a bond series becomes very near. (Dewhurst, Olson)

OPC: No position.

FIPUG: FIPUG supports the testimony of Staff witness Fichera.

FRF: No position.

AARP: No position.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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

POSITION:

FPL: Yes. The Initial True-up letter as proposed by FPL will provide Staff, acting at the Commission's direction, information necessary to ensure that any proposed issuance complies with the Financing Order. (Dewhurst, Morley, Olson)

OPC: No position.

FIPUG: FIPUG supports the testimony of Staff witness Fichera.

FRF: No position.

AARP: No position.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: 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?**

POSITION:

FPL: FPL believes by issuing a Financing Order in substantially the form submitted as Exhibit B to its Petition, including the proposed findings of fact and conclusions of law, the Commission will include the provisions necessary to facilitate triple-A

(or equivalent) credit ratings from applicable rating agencies and provide the investment community confidence in the storm-recovery bond issuance. By issuing such an order, the Commission would ensure that the structuring, marketing and pricing of the storm recovery bonds will be consistent with the terms of the statute and result in an efficient and cost-effective financing. (Dewhurst, Olson)

OPC: The Commission should adopt the “best practices” standard which includes active participation by the Commission, its staff, and financial advisors in the bond issuance process.

FIPUG: Agree with OPC.

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

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 68: Is the “proposed structur[e], expected pricing and financing costs of the storm-recovery bonds [] reasonably expected to result in lower overall costs or [] avoid or significantly mitigate rate impacts to customers as compared with alternative methods of recovery?”

POSITION:

FPL: Yes. Issuance of storm-recovery bonds of the proposed structure, expected pricing and financing costs is reasonably expected to avoid or significantly mitigate rate impacts to customers as compared with alternative methods of recovery. (Dewhurst, Morley, Olson)

OPC: No. The method proposed by FPL is not reasonably expected to result in the lowest overall costs for securitization. To ensure that the issuance of storm-recovery bonds results in the lowest overall cost to ratepayers compared with the alternative methods of financing, the “best practices” outlined in Commission staff witness Fichera’s direct testimony should be adopted. These “best practices” include active participation by the Commission, its staff, and financial advisors in the bond issuance process which ensures that the ratepayers have protection. (Same as Issue 39)

FIPUG: FIPUG supports the testimony of Staff witness Fichera.

FRF: No. Without the ratepayer protections, including the "best practices," described in Staff witness Fichera's testimony, the proposed structure, pricing, and financing costs cannot be reasonably expected to provide appropriate and available benefits to FPL's ratepayers.

AARP: Agree with OPC.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 69: WITHDRAWN

ISSUE 70: WITHDRAWN

ISSUE 71: What flexibility should FPL be afforded in establishing the terms and conditions of the storm recovery bonds, including, but not limited to, repayment schedules, interest rates, and other financing costs, as well as the use of floating rate securities, interest rate swaps, and call provisions?

POSITION:

FPL: FPL should be afforded the flexibility to issue the storm-recovery bonds in one or more series, and each series may be issued in one or more classes or tranches. At least some of the bonds should have an expected term of approximately 12 years. The legal maturity may be approximately 14 years. The bonds shall be structured to provide a combined Storm Bond Repayment Charge and Storm Bond Tax Charge per kWh to each customer class that is level over the period of recovery if the actual seasonal and year-to-year changes in load match the changes forecast at the time the bonds are structured.

As is the case with most debt issuances, the cost of the debt, i.e., the effective interest rate, will not be known until the storm-recovery bonds are priced. Because the mitigation of rate impacts through the proposed bond issuance is significant and based on approval of an approximate 12-year bond amortization schedule, only an extraordinary change in market conditions between the time this Order is issued and the issuance date would overcome the benefits associated with

FPL's proposal. If market rates rise to such an extent that the initial average retail cents per kWh Storm Charge associated with the storm-recovery bond issuance would exceed the average retail cents per kWh charge associated with the 2004 Storm Restoration Surcharge now in effect, FPL should reduce the aggregate amount of the storm-recovery bond issuance to an amount whereby the initial average retail cents per kWh Storm Charge would not exceed the average retail cents per kWh 2004 Storm Restoration Surcharge currently in effect.

Debt service on the storm-recovery bonds, as well as the ongoing fees of the trustee, rating agency surveillance fees and the ongoing costs of any other credit enhancement and other ongoing costs of administering the bond issuance, will not be known until the pricing of the bonds or later (e.g., rating agency fees and trustee fees will not be known until later, but FPL has provided an estimate of the ongoing costs for the initial year after issuance). The Commission should provide flexibility to recover such costs through the Storm Charge, and the true up of such charge. Further, if their use is reasonably expected to provide customer savings, FPL should be able to utilize floating rate securities and interest rate swaps, and should be afforded flexibility to include call provisions as FPL may deem appropriate. (Dewhurst, Olson)

OPC: The Commission and FPL should work together in a collaborative process as described in the "best practices" standard to allow for flexibility by the parties to ensure that the lowest overall costs are obtain for the benefit of the ratepayers.

FIPUG: Agree with OPC.

FRF: Agree with OPC. Additionally, the Commission should ensure that any post-approval exercise of flexibility is demonstrated, in appropriate proceedings that afford substantially affected parties a point of entry, to provide real, measurable benefits to customers, and that FPL's customers are protected from any adverse consequences of imprudent FPL decisions pursuant to allowed flexibility.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 72: STIPULATED (See Section X.)

ISSUE 73: STIPULATED (See Section X.)

ISSUE 74: Based on resolution of the preceding issues, should a financing order in substantially the form proposed by FPL be approved, including the findings of fact and conclusions of law as proposed?

POSITION:

FPL: Yes. FPL believes by issuing a Financing Order in substantially the form submitted as Exhibit B to its Petition, including the proposed findings of fact and conclusions of law, the Commission will include the provisions necessary to facilitate triple-A (or equivalent) credit ratings from applicable rating agencies and provide the investment community confidence in the storm-recovery bond issuance. Such an order would be consistent with the terms of the statute and result in an efficient and cost-effective financing. (Dewhurst, Olson)

OPC: No, the financing order needs to reflect the Commission's decision in this proceeding including findings of fact and law.

FIPUG: Agree with OPC.

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.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: Yes. If the Commission approves the substance of FPL's primary recommendation and market rates rise as described above, to ensure that the rate mitigation benefits of securitization are realized, FPL should reduce the aggregate amount of the storm-recovery bond issuance to an amount whereby the initial average retail cents per kWh Storm Charge requested would not exceed the average retail cents per kWh 2004 Storm Restoration Surcharge currently in effect. (Dewhurst)

OPC: No position.

FIPUG: No position.

FRF: No position.

AARP: No position.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: 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;
- b. The calculation of the surcharge;
- c. The cost allocation to the rate classes; and
- d. The surcharge's termination date.

POSITION:

FPL: a. If it becomes necessary to implement such a surcharge due to delay in the issuance of storm-recovery bonds, a new tariff would be proposed and submitted by FPL for administrative approval and calculated so as to recover the total

amount of 2005 storm costs approved for recovery in the Financing Order over approximately three years. (Dewhurst)

b. The charges by rate class should be determined by dividing each class's allocated costs by its kWh sales as provided by FPL in Document No. RM-8. (Morley).

c. The allocation of costs to the rate classes should be consistent with the manner in which equivalent costs were treated in the last filed cost of service study as provided by FPL in Document No. RM-4. (Morley)

d. No position at this time pending review of testimony and evidence presented at hearing.

OPC:

a. FPL should not be permitted to initiate an interim rate to begin collecting for 2005 storm costs if the bond issuance is delayed. Any additional surcharge on top of the 2004 surcharge would negate the benefit of rate shock mitigation to the ratepayers avoided by the use of securitization. If the initial bond issuance is delayed beyond the period in which all actual 2004 storm costs, as adjusted by the Commission in this docket, have been collected, the rate for the 2004 storm costs should be allowed to continue until all of the 2005 actual, true-up, storm costs have been collected or until the first bond is issued. The subsequent bond issuances should be netted for any amounts collected after the issuance of the financing order.

b. See above position under section (a).

c. No position.

d. See above position under section (a).

FIPUG:

a. Yes. The amount approved for recovery via a temporary should be the same as the amount approved for securitization.

b. With respect to calculating the surcharge and allocating costs between customer classes, FIPUG endorses the approach that matches revenue collections to storm costs incurred — that is, customers taking service from the transmission system should not be charged for damages to the distribution system. These costs should be allocated based on the cost of service methodology last filed with and approved by the Commission in Docket No. 830465-EI.

c. With respect to calculating the surcharge and allocating costs between customer classes, FIPUG endorses the approach that matches revenue collections to storm costs incurred — that is, customers taking service from the transmission system should not be charged for damages to the distribution system. These costs should

be allocated based on the cost of service methodology last filed with and approved by the Commission in Docket No. 830465-EI.

d. Agree with STAFF.

FRF: **a.** 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. See FRF position above.

c. No. position

d. See FRF position above.

AARP: The same as the Office of Public Counsel.

FEA: Same as FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

FPL: No adjustment is necessary since FPL would calculate interest on the storm costs to be recovered on an after-tax commercial paper rate basis.

OPC: Yes. FPL should only be allowed to accrue and collect interest on the actual amount of storm costs incurred less the adjustments made in this proceeding. The accrual of interest should begin in November, 2005 and the interest rate should be applied at the pre-tax commercial paper rate for each month so that the calculation is consistent with the recognition of credit deferred income taxes.

FIPUG: Yes. Each month FPL should calculate interest on the outstanding net-of-tax balance of the storm damage account, which shall be the outstanding balance of the storm damage account less 38.575% taxes.

FRF: Yes. Agree with OPC.

AARP: The same as the Office of Public Counsel.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?**

POSITION:

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)

OPC: No position at this time.

FIPUG: The storm damage account should be credited each month with the actual amount recovered from ratepayers.

FRF: No position.

AARP: Same position as FIPUG.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

RATES

ISSUE 79: STIPULATED (See Section X.)

ISSUE 80: If the Commission approves recovery of any storm-related costs through securitization, how should the recovery of these costs be allocated to the rate classes?

POSITION:

FPL: The allocation of the costs to the rate classes should be consistent with the manner in which equivalent costs were treated in the last filed cost of service study as provided by FPL in Document Nos. RM-3, RM-4 and RM-5. (Morley)

OPC: No position.

FIPUG: With respect to allocating costs between customer classes, FIPUG endorses the approach that matches revenue collections to storm costs incurred — that is, customers taking service from the transmission system should not be charged for damages to the distribution system. These costs should be allocated based on the cost of service methodology last filed with and approved by the Commission in Docket No. 830465-EI.

FRF: No position.

AARP: Same position as FPL.

FEA: Concur with FIPUG.

AG: Adopt same position as OPC.

STAFF: 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 Rosemary Morley's Direct Testimony, Exhibit No. RM-6, page 2 of 2. These percentages are based on the amount of 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 the 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.

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?

POSITION:

FPL: Twelve years. (Dewhurst, Olson)

OPC: No position.

FIPUG: Agree with FPL. [FIPUG is not opposed to a stipulation as to Issue 81]

FRF: No position.

AARP: No position.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

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?

POSITION:

FPL: Yes, FPL's proposed mechanism is appropriate, consistent with the statute, and should be approved. (Davis)

OPC: No position.

FIPUG: Agree with FPL.

FRF: No position.

AARP: No position.

FEA: Agree with FIPUG.

AG: Adopt same position as OPC.

STAFF: No position at this time.

ISSUE 83: STIPULATED (See Section X.)

ISSUE 84: STIPULATED (See Section X.)

ISSUE 85: STIPULATED (See Section X.)

ISSUE 86: STIPULATED (See Section X.)

OTHER

ISSUE 87: STIPULATED (See Section X.)

ISSUE 88: Should this docket be closed?

POSITION:

FPL: Yes.

OPC: No.

FIPUG: No position.

FRF: No.

AARP: The same as the Office of Public Counsel.

FEA: No position.

AG: Adopt same position as OPC.

STAFF: No position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Moray P. Dewhurst	FPL	<u>MPD-1</u>	Summary of Primary Recommendation
Moray P. Dewhurst	FPL	<u>MPD-2</u>	Summary of Alternative Recommendation
Moray P. Dewhurst	FPL	<u>MPD-3</u>	Estimated Up-front and On-Going Bond Issuance Costs
Geisha J. Williams	FPL	<u>GJW-1</u>	Hurricane Dennis Satellite Picture
Geisha J. Williams	FPL	<u>GJW-2</u>	Hurricane Katrina Satellite Picture
Geisha J. Williams	FPL	<u>GJW-3</u>	Hurricane Rita Satellite Picture
Geisha J. Williams	FPL	<u>GJW-4</u>	Hurricane Wilma Satellite Picture
Geisha J. Williams	FPL	<u>GJW-5</u>	2005 Storm Cost
Geisha J. Williams	FPL	<u>GJW-6</u>	FPL Storm Comparison - 2005 vs. 2004
Dr. Richard E. Brown	FPL	<u>REB-1</u>	Technical Report: Post Hurricane Wilma Engineering Analysis
Mark Warner	FPL	<u>MW-1</u>	2005 Nuclear Storm Costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
K. Michael Davis	FPL	<u>KMD-1</u>	Rev. Req. for Primary Recommendation Rev. Req. for Alternative Recommendation
K. Michael Davis	FPL	<u>KMD-2</u>	Summary of Storm Costs
K. Michael Davis	FPL	<u>KMD-3</u>	Unrecovered 2004 Storm Recovery Costs
K. Michael Davis	FPL	<u>KMD-4</u>	Unrecovered 2005 Storm Recovery Costs
K. Michael Davis	FPL	<u>KMD-5</u>	Excerpts from July 19 Agenda
K. Michael Davis	FPL	<u>KMD-6</u>	2005 Power Generation Storm Costs
K. Michael Davis	FPL	<u>KMD-7</u>	2005 Other FPL Facilities
K. Michael Davis	FPL	<u>KMD-8</u>	Storm Charge True-Up Mechanism Form
K. Michael Davis	FPL	<u>KMD-9</u>	Accounting Entries to Record Storm Recovery Financing
Steven P. Harris	FPL	<u>SPH-1</u>	Storm Loss Analysis
Steven P. Harris	FPL	<u>SPH-2</u>	Solvency analysis of Reserve Funding Alternatives
Steven P. Harris	FPL	<u>SPH-3</u>	Comparison of FPL T&D Damage from SSI-4 Storms at Landfalls with FPL Primary Recommendation; Initial and 5-year Reserve Balance Levels

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Wayne Olson	FPL	<u>WO-1</u>	Attached to Olson's direct testimony
Wayne Olson	FPL	<u>WO-2</u>	Attached to Olson's direct testimony
Wayne Olson	FPL	<u>WO-3</u>	Attached to Olson's direct testimony
Wayne Olson	FPL	<u>WO-4</u>	Attached to Olson's direct testimony
Wayne Olson	FPL	<u>WO-5</u>	Form of Indenture
Wayne Olson	FPL	<u>WO-6</u>	Form of Sale Agreement
Wayne Olson	FPL	<u>WO-7</u>	Form of Servicing Agreement
Wayne Olson	FPL	<u>WO-8</u>	Form of Administration Agreement
Wayne Olson	FPL	<u>WO-9</u>	Form of LLC Agreement
Wayne Olson	FPL	<u>WO-10</u>	Form of Master Definitions
Wayne Olson	FPL	<u>WO-11</u>	Summary of Financing Documents
Dr. Leonardo E. Green	FPL	<u>LEG-1</u>	Total Average Customer Growth
Dr. Leonardo E. Green	FPL	<u>LEG-2</u>	Absolute Monthly Customer Growth
Dr. Leonardo E. Green	FPL	<u>LEG-3</u>	Net Energy for Load per Customer

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Dr. Leonardo E. Green	FPL	<u>LEG-4</u>	Net Energy for Load
Dr. Leonardo E. Green	FPL	<u>LEG-5</u>	Florida Non-Agricultural Employment
Dr. Leonardo E. Green	FPL	<u>LEG-6</u>	Comparison of the U.S. & Florida Economy
Dr. Leonardo E. Green	FPL	<u>LEG-7</u>	U.S. Real Gross Domestic Product
Dr. Leonardo E. Green	FPL	<u>LEG-8</u>	Real Price of Electricity
Dr. Leonardo E. Green	FPL	<u>LEG-9</u>	Price Impact on Net Energy for Load Forecast
Dr. Leonardo E. Green	FPL	<u>LEG-10</u>	Summary of Impact of Hurricanes on Net Energy for Load
Dr. Leonardo E. Green	FPL	<u>LEG-11</u>	Impact of Hurricane Dennis on Net Energy for Load
Dr. Leonardo E. Green	FPL	<u>LEG-12</u>	Impact of Hurricane Katrina on Net Energy for Load
Dr. Leonardo E. Green	FPL	<u>LEG-13</u>	Impact of Hurricane Rita on Net Energy for Load
Dr. Leonardo E. Green	FPL	<u>LEG-14</u>	Impact of Hurricane Wilma on Net Energy for Load
Dr. Rosemary Morley	FPL	<u>RM-1</u>	Separation of 2005 Storm Costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Dr. Rosemary Morley	FPL	<u>RM-2</u>	Separation of Future Storm Costs
Dr. Rosemary Morley	FPL	<u>RM-3</u>	Allocation of 2004 Storm Costs
Dr. Rosemary Morley	FPL	<u>RM-4</u>	Allocation of 2005 Storm Costs
Dr. Rosemary Morley	FPL	<u>RM-5</u>	Allocation of Future Storm Costs
Dr. Rosemary Morley	FPL	<u>RM-6</u>	Allocation of Storm Charge
Dr. Rosemary Morley	FPL	<u>RM-7</u>	Proposed Storm Charge
Dr. Rosemary Morley	FPL	<u>RM-8</u>	Traditional Surcharge
Dr. Rosemary Morley	FPL	<u>RM-9</u>	Comparison of Charges
Dr. Rosemary Morley	FPL	<u>RM-10</u>	Sample Bill Calculations
Dr. Rosemary Morley	FPL	<u>RM-11</u>	Proposed Tariff Sheets
Dr. Rosemary Morley	FPL	<u>RM-12</u>	Revenue Calculation
James S. Byerley, P.E.	OPC	<u>JSB-1</u>	Report of Field Inspection Trip
James S. Byerley, P.E.	OPC	<u>JSB-2</u>	FPL Facility Review
James S. Byerley, P.E.	OPC	<u>JSB-3</u>	FPL Pole Yard Inspection
James S. Byerley, P.E.	OPC	<u>JSB-4</u>	Response to Interrogatory No. 126

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
James S. Byerley, P.E.	OPC	<u>JSB-5</u>	Memorandum of C.J. Wong
James S. Byerley, P.E.	OPC	<u>JSB-6</u>	1998 Analytical Techniques
James S. Byerley, P.E.	OPC	<u>JSB-7</u>	Conservation- Corbett Inspection
James S. Byerley, P.E.	OPC	<u>JSB-8</u>	FPL Staff Report
James S. Byerley, P.E.	OPC	<u>JSB-9</u>	Comparison of 1999 and 2005 Bolt Inspections
James S. Byerley, P.E.	OPC	<u>JSB-10</u>	Peening Cross Brace Bolt Threads
James S. Byerley, P.E.	OPC	<u>JSB-11</u>	Reliability 2000 Deployment Plan
James S. Byerley, P.E.	OPC	<u>JSB-12</u>	Program Evaluation Matrix
James S. Byerley, P.E.	OPC	<u>JSB-13</u>	Random Review of FPL Thermovision Inspection Reports
James S. Byerley, P.E.	OPC	<u>JSB-14</u>	RUS Bulletin 1730 B-121 Pages 6 & 7
James S. Byerley, P.E.	OPC	<u>JSB-15</u>	Wilma Forensics – Excerpt, Page 11
James S. Byerley, P.E.	OPC	<u>JSB-16</u>	Hardening of the Infrastructure-A Five Point Plan
James S. Byerley, P.E.	OPC	<u>JSB-17</u>	Hardening Distribution’s Infrastructure Executive Summary

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
James S. Byerley, P.E.	OPC	<u>JSB-18</u>	Wilma Forensics – Excerpt, Page 9
Hugh Larkin, Jr.	OPC	<u>HL-1</u>	Comparison of Monthly Actual Sales to Estimated
Donna DeRonne, C.P.A.	OPC	<u>DD-1</u>	Adjustments to 2005 Storm Cost Estimates
Donna DeRonne, C.P.A.	OPC	<u>DD-2</u>	Adjustment to 2004 Storm Cost Estimates
Stephen A. Stewart	OPC (jointly w/AARP)	<u>SAS-1</u>	Storm Damage Reserve Level Scenarios
Kathy L. Welch	STAFF	<u>KLW-1</u>	History of Testimony Provided by Kathy L. Welch
Kathy L. Welch	STAFF	<u>KLW-2</u>	Audit Report
Kathy L. Welch	STAFF	<u>KLW-3</u>	Supplemental Audit Report
Joseph S. Fichera	STAFF	<u>JSF-1</u>	Duties of Financial Advisor
Joseph S. Fichera	STAFF	<u>JSF-2</u>	Usage of Utility Fee Securitization/Ratepayer- Backed Bonds
Joseph S. Fichera	STAFF	<u>JSF-3</u>	Relative Value in Practice
Joseph S. Fichera	STAFF	<u>JSF-4</u>	The Benefits of 20% Risk Weighting
Joseph S. Fichera	STAFF	<u>JSF-5</u>	Ratepayer-Backed Bonds Historical Pricing Spreads to Credit Cards
Joseph S. Fichera	STAFF	<u>JSF-6</u>	Press Articles 2002 – 2005

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Michael L. Noel	STAFF	<u>MLN-1</u>	Recent Press Releases Regarding Abusive Practices and Malfeasance by Underwriters
Michael L. Noel	STAFF	<u>MLN-2</u>	Study by the Wisconsin Public Service Commission
Michael L. Noel	STAFF	<u>MLN-3</u>	Saber Partners Ratepayer-Backed Bond Assignments
Michael L. Noel	STAFF	<u>MLN-4</u>	Historical Pricing of Ratepayer-Backed Bonds
Rebecca Klein	STAFF	<u>RK-1</u>	Issuance Advice Letter form CenterPoint Energy – Series A Transaction
Rebecca Klein	STAFF	<u>RK-2</u>	Supplemental Certificate from Issuing Utility
<u>Rebuttal</u>			
Geisha J. Williams	FPL	<u>GJW-7</u>	Non-Hurricane Pole-Related Outages
Geisha J. Williams	FPL	<u>GJW-8</u>	Benchmarking – Pole Replacements
Geisha J. Williams	FPL	<u>GJW-9</u>	2005 Updated Storm Cost
Geisha J. Williams	FPL	<u>GJW-10</u>	2005 Storm Follow-Up Work
Dr. Leonardo E. Green	FPL	<u>LEG-15</u>	2005 Total Energy Sales: Forecast Versus Actuals
Mark Warner	FPL	<u>MW-2</u>	2004 Nuclear Estimate of Non-Insured Storm Damage

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mark Warner	FPL	<u>MW-3</u>	2005 Nuclear Storm Preparation Costs
Wayne Olson	FPL	<u>WO-12</u>	Market Spreads 2000-2006
Wayne Olson	FPL	<u>WO-13</u>	Update to PSC of Wisconsin Study
Hugh Gower	FPL	<u>HAG-1</u>	Hawaii Case excerpt
Hugh Gower	FPL	<u>HAG-2</u>	Mr. Larkin Deposition excerpt
Hugh Gower	FPL	<u>HAG-3</u>	Florida Administrative Code excerpt
Hugh Gower	FPL	<u>HAG-4</u>	Mississippi River Fuel Corp. Case excerpt
Hugh Gower	FPL	<u>HAG-5</u>	Code of Federal Regulation excerpt
K. Michael Davis	FPL	<u>KMD-10</u>	Net Operating Income Impact
K. Michael Davis	FPL	<u>KMD-11</u>	Proposed Adj to 2004 Storm Costs
K. Michael Davis	FPL	<u>KMD-12</u>	2004 Storm Costs
K. Michael Davis	FPL	<u>KMD-13</u>	Proposed Adj to 2005 Storm Costs
K. Michael Davis	FPL	<u>KMD-14</u>	Backfill, Catch-up, Payroll that Would Normally Be Charged To Capital and/or Clauses
K. Michael Davis	FPL	<u>KMD-15</u>	2005 Capital Storm Costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
K. Michael Davis	FPL	<u>KMD-16</u>	2005 Payroll Overheads
K. Michael Davis	FPL	<u>KMD-17</u>	Discovery
K. Michael Davis	FPL	<u>KMD-18</u>	FPL Response to 2005 Staff Audit Report
Steven P. Harris	FPL	<u>SPH-4</u>	NOAA Magazine
Steven P. Harris	FPL	<u>SPH-5</u>	Reserve Solvency Analysis Results Given \$147.1 Million Expected Annual Damage, \$200 million Initial Balance, No Accruals, No Recovery of Negative Reserve Balances
Steven P. Harris	FPL	<u>SPH-6</u>	Protection Afforded by \$200 Million Initial Reserve Balance Against Frequency Weighted Transmission & Distribution Damage from Single SSI-3 Storm Landfalls
Moray P. Dewhurst	FPL	<u>MPD-4</u>	Stipulation and Settlement dated 8/22/05
Moray P. Dewhurst	FPL	<u>MPD-5</u>	McMillan testimony for Gulf Power
Moray P. Dewhurst	FPL	<u>MPD-6</u>	Commissioner Smitherman Memo (9/21/05)
Moray P. Dewhurst	FPL	<u>MPD-7</u>	CS1 HB 303
Moray P. Dewhurst	FPL	<u>MPD-8</u>	CS2 HB 303
Moray P. Dewhurst	FPL	<u>MPD-9</u>	Storm Recovery Bond Issuance Process

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Moray P. Dewhurst	FPL	<u>MPD-10</u>	Saber Contract with FPSC

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

A. The following stipulated issues reflect agreement among all parties:

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

POSITION: 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.

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

POSITION: Yes.

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?

POSITION: Yes.

B. The following stipulated issues reflect agreement between FPL and Staff, with all other parties taking "No position" on the issue:

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?

POSITION: 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?

POSITION: Yes.

ISSUE 79: Are the energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism appropriate?

POSITION: Yes. The energy sales forecasts used to develop the bond amortization schedules and the recovery mechanism are appropriate.

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

POSITION: At least every six months.

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

POSITION: The current Storm Restoration Surcharge should be terminated concurrent with the effective date of the proposed Storm Charge.

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

POSITION: 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.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

The following confidentiality matters, which will be addressed by separate order, are pending at this time:

1. FPL's request for confidential classification of certain materials provided responsive to OPC's Fifth Set of Interrogatories (No. 108 – supplemental) and OPC's Ninth Set of Interrogatories (No. 178 – supplemental), filed April 10, 2006;

2. FPL's request for confidential classification of certain materials provided responsive to OPC's First Request for Production of Documents (Nos. 7, 21, & 22), OPC's Second Request for Production of Documents (No. 26), OPC's Eighth Request for Production of Documents (No. 91), Staff's First Request for Production of Documents (Nos. 3, 24, 34, 35, & 36), and Staff's Fourth Request for Production of Documents (No. 67), filed April 7, 2006;
3. FPL's request for confidential classification of certain materials provided responsive to certain information provided in connection with Staff storm damage cost recovery supplemental Audit No. 05-292-4-1, filed April 3, 2006;
4. FPL's request for confidential classification of certain materials provided responsive to OPC's Fourth Request for Production of Documents (No. 70), OPC's Seventh Request for Production of Documents (No. 83), and Staff's First Request for Production of Documents (Nos. 3 & 6), filed March 30, 2006;
5. FPL's request for confidential classification of certain materials provided in connection with storm damage cost recovery Audit No. 05-292-4-1, filed March 22, 2006;
6. FPL's request for confidential classification of certain materials related to the contract between FPL and KEMA filed February 24, 2006; and
7. FPL's request for confidential classification of certain information included in rebuttal testimony, filed April 10, 2006.

XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 80 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 80 words, it must be reduced to no more than 80 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 200 pages and shall be filed at the same time.

XIV. RULINGS

A. Pursuant to agreement of the parties at the Prehearing Conference, opening statements shall be allowed as follows: FPL – 10 minutes; Intervenors (collectively) – 20 minutes. Staff shall be permitted to make an opening statement of no more than 5 minutes.

B. Noting no objection from the parties, the Office of the Attorney General's Petition to Intervene is granted. All pleadings, orders, and correspondence shall be provided to the Office of the Attorney General through the following representatives:

CHRISTOPHER M. KISE
Solicitor General
JACK SHREVE
Senior General Counsel
OFFICE OF THE ATTORNEY GENERAL
The Capitol-PLO1
Tallahassee, Florida 32399-1 050
Tel: (850) 414-3681
Fax: (850) 410-2672

It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason, as Prehearing Officer, this 18th day of April, 2006.


J. TERRY DEASON
Commissioner and Prehearing Officer

(SEAL)

WCK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.