

**Timolyn Henry**

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**Sent:** Tuesday, February 20, 2007 4:53 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Bill Walker; Capt. Damund Williams; Cecillia Bradley; Jack Shreve; James D. Beasley; James W. Brew; Jeff Stone; John Butler; John McWhirter; Joseph A. McGlothlin; Karen White; Lee Willis; Lisa Bennett; Michael Twomey; Norman "Doc" Horton; Patricia Christensen; Paula K. Brown, Regulatory Affairs; Phyllis Davis, Asst. to P. Christensen; Rhonda Dulgar, Asst. to S. Wright; Schef Wright; Susan Ritenour; Wade Litchfield  
**Subject:** Filing Docket 060658

**Attachments:** PEF Req for Oral Argument on Motion to Strike.pdf; PEF Motion to Strike Testimony of Windham.pdf



PEF Req for Oral Argument on M... PEF Motion to Strike Testimony...

<<PEF Req for Oral Argument on Motion to Strike.pdf>> <<PEF

Motion to Strike Testimony of Windham.pdf>>

Attached for Filing is Progress Energy Florida, Inc.'s Motion to Strike or Alternatively Motion in Limine to Exclude the Testimony of Bernard Windham and Request for Oral Argument on same.

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*Motion to Strike*  
 DOCUMENT NUMBER-DATE  
 1 01674 FEB 20 5

*Req. for Oral*  
 DOCUMENT NUMBER-DATE  
 01673 FEB 20 5

FPSC-COMMISSION CLERK

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition on behalf of Citizens of	)	
the State of Florida to require	)	DOCKET NO. 060658-EI
Progress Energy Florida, Inc. to	)	
refund to customers \$143 million	)	Filed: February 20, 2007
_____)		

**PROGRESS ENERGY FLORIDA, INC.'S REQUEST FOR ORAL ARGUMENT  
ON MOTION TO STRIKE OR, ALTERNATIVELY, MOTION IN LIMINE  
TO EXCLUDE THE TESTIMONY OF BERNARD WINDHAM**

Progress Energy Florida, Inc. ("PEF" or the "Company"), through its undersigned counsel and pursuant to Rules 25-22.058 and 25-106.104, F.A.C., hereby files PEF's Request for Oral Argument on PEF's Motion to Strike or, Alternatively, Motion in Limine to Exclude the Testimony of Bernard Windham. In support of PEF's Request, PEF states that:

1. This docket was opened in August, 2006 to address OPC's Petition to require PEF to refund customers \$143 million. The sole issue in OPC's petition is whether PEF should have purchased an equal blend of bituminous coal and sub-bituminous coal from the Powder River Basin (PRB) for its Crystal River Units 4 and 5 from 1996 to 2005, rather than the bituminous coal and bituminous-based coal products PEF purchased for those units. OPC's Petition is limited to this issue. Likewise, OPC's testimony in support of its Petition filed in October 2006 and all discovery in this case to date has been limited to this issue.

2. Staff filed the testimony of Bernard M. Windham on February 14, 2007 and filed exhibits to that testimony totaling 293 pages on February 15, 2007, which Staff amended on February 20, 2007. Mr. Windham's testimony raises an issue that was not raised by OPC's

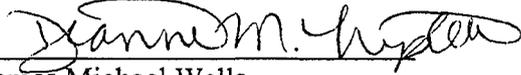
Petition and testimony. Mr. Windham's testimony attempts to insert an entirely new issue in this proceeding.

3. PEF believes that oral argument would assist the Commission in understanding just how Mr. Windham's testimony is irrelevant to any issue in this case and is beyond the scope of the Petition in this docket.

Wherefore, PEF requests that the Commission grant PEF's Request for Oral Argument on its Motion to Strike or, Alternative, Motion in Limine to Exclude the Testimony of Bernard Windham.

Respectfully submitted this 20<sup>th</sup> day of February, 2007.

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail this 20<sup>th</sup> day of February, 2007 to all parties of record as indicated below.

  
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