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Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 070001-EI

In re: Fuel and Purchased Power Cost Recovery Clause with Generating Performance Incentive Factor

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 13 pages.

e. The document attached for electronic filing is the Prehearing Statement of the Office of Public Counsel.

(See attached file: 070001.prehearing statement.sversion.doc)

Thank you for your attention and cooperation to this request.

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10/8/2007

DOCUMENT NUMBER-DATE
09196 OCT-8 5
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Fuel and Purchased Power)
Cost Recovery Clause with)
Generating Performance Incentive)
Factor)
_____)

DOCKET NO. 070001-EI

FILED: October 8, 2007

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-07-0221-PCO-EI, issued March 12, 2007, submit this Prehearing Statement.

APPEARANCES:

PATRICIA A. CHRISTENSEN, Esquire
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JOSEPH A. MCGLOTHLIN, Esquire
Associate Public Counsel
STEPHEN C. BURGESS, Esquire
Associate Public Counsel
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.

1. **WITNESSES:**

Citizens prefiled testimony by the following witnesses:

Robert L. Sansom: In Docket No. 060658-EI the Commission determined PEF was imprudent in failing to position itself to take advantage of the capability of Crystal River Units 4 and 5 to burn a blend of subbituminous and bituminous coals when subbituminous coal from the Powder River Basin would have lowered customers' costs in 2003, 2004, and 2005. Mr. Sansom will testify that in calendar year 2006 subbituminous coal from the Powder River Basin

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continued to be more economical than the 100% bituminous coal that PEF burned in Crystal River Units 4 and 5, and due to its imprudence PEF was similarly unable to take advantage of the opportunity to lower fuel costs borne by customers. Applying the parameters of the Commission's decision in Docket No. 060658-EI, Mr. Sansom testifies that the Commission should require PEF to return a minimum of \$14,235,491 in excess coal costs to customers.

Aaron L. Rothschild: Mr. Rothschild's testimony recommends that Florida Power & Light ("FP&L") not be reimbursed for their increased purchase power of \$6,163,000 due to the outage of the Turkey Point Unit 3 and also explains why the losses associated with the Turkey Point outage would represent in his opinion the realization of what is called a diversifiable risk whether or not this accident was caused by management error or some form of sabotage.

2. EXHIBITS:

Witness for Citizens prefiled the following exhibits:

Robert L. Sansom

- (RLS-1) RESUME OF ROBERT L. SANSOM
- (RLS-2) REVISED STAFF RECOMMENDATION
- (RLS-3) BID EVALUATION
- (RLS-4) COAL PRICES
- (RLS-5) 2004 BID ANALYSIS
- (RLS-6) RFP/BIDS/PURCHASES
- (RLS-7) PRB BID SUMMARY
- (RLS-8) CASH/AS UTILIZED BIDS
- (RLS-9) PRB/CAPP PRICE COMPARISON

- (RLS-10) 2006 423 FORMS
- (RLS-11) 2006 WATER CONTRACTS
- (RLS-12) RFP BITUMINOUS COAL PRICES
- (RLS-13) COMPONENTS OF SPRING CREEK BID
- (RLS-14) COMPONENTS OF ARCH PRICE PER TON
- (RLS-15) CALCULATION OF PRB BID PRICES
- (RLS-16) CALCULATION OF OVERCHARGES
- (RLS-17) EXCESS OF SO2 ALLOWANCES

Aaron L. Rothschild

- (ALR) Resume of Aaron L. Rothschild

3. STATEMENT OF BASIC POSITION

In its review of the utilities' pleadings and testimony, the Commission must protect customers by disallowing fuel costs that are imprudently incurred and/or unreasonably high. Citizens will identify and address instances of such costs in company-specific issues below.

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

GENERIC FUEL ADJUSTMENT ISSUES

ISSUE 1: What are the appropriate fuel adjustment true-up amounts for the period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 2: What are the appropriate fuel adjustment true-up amounts for the period January 2007 through December 2007?

OPC: No position at this time.

ISSUE 3: What are the appropriate total fuel adjustment true-up amounts to be collected/refunded from January 2008 to December 2008?

OPC: No position at this time.

ISSUE 4: What is the appropriate revenue tax factor to be applied in calculating each investor-owned electric utility's levelized fuel factor for the projection period January 2008 through December 2008?

OPC: No position at this time.

ISSUE 5: What are the appropriate projected net fuel and purchased power cost recovery amounts to be included in the recovery factor for the period January 2008 through December 2008?

OPC: No position at this time.

ISSUE 6: What are the appropriate levelized fuel cost recovery factors for the period January 2008 through December 2008?

OPC: No position at this time.

ISSUE 7: What are the appropriate fuel recovery line loss multipliers to be used in calculating the fuel cost recovery factors charged to each rate class/delivery voltage level class?

OPC: No position at this time.

ISSUE 8: What are the appropriate fuel cost recovery factors for each rate class/delivery voltage level class adjusted for line losses?

OPC: No position at this time.

ISSUE 9: What should be the effective date of the fuel adjustment charge and capacity cost recovery charge for billing purposes?

OPC: No position at this time.

ISSUE 10: What are the appropriate actual benchmark levels for calendar year 2007 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?

OPC: No position at this time.

ISSUE 11: What are the appropriate estimated benchmark levels for calendar year 2008 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?

OPC: No position at this time.

COMPANY-SPECIFIC FUEL ADJUSTMENT ISSUES

Progress Energy Florida

ISSUE 12A:

Staff's

wording:

Was PEF prudent in its coal procurement for CR4 and CR5 during this time period from 2006 through 2007?

OPC's

wording:

Were the costs of the fuel that Progress Energy Florida incurred to operate Crystal River Units 4 and 5 during calendar year 2006 unreasonably high as a consequence of its failure to position itself to burn a blend of Powder River Basin subbituminous coal and bituminous coal in the units when the blend was more economical for customers? If so, by what amount should the true-up for 2006 be adjusted to account for the unreasonable fuel costs?

OPC

Position:

In Docket No. 060658-EI the Commission determined PEF was imprudent in failing to position itself to take advantage of the capability of Crystal River Units 4 and 5 to burn a blend of subbituminous and bituminous coals when subbituminous coal from the Powder River Basin would have lowered customers' costs in 2003, 2004, and 2005. In calendar year 2006 subbituminous coal from the Powder River Basin continued to be more economical than the 100% bituminous coal that PEF burned in Crystal River Units 4 and 5; in fact, the cost differential increased, meaning the opportunity for savings achievable by incorporating PRB coal increased. However, as a result of imprudence PEF was similarly unable to take advantage of the opportunity to lower fuel costs borne by customers. Applying the parameters of the Commission's decision in Docket No. 060658-EI to the circumstances of 2006, the Commission should require PEF to return a minimum of \$14,235,491 in excess coal costs to customers.

ISSUE 12B: Has PEF adequately mitigated the price risk for natural gas, residual oil, and purchased power for the years 2006 through 2008?

OPC: No position at this time.

Florida Power & Light Company

ISSUE 13A: With respect to the outage extension at Turkey Point Unit 3 which was caused by a drilled hole in the pressurized piping, should customers or FPL be responsible for the additional fuel cost incurred as a result of the extension?

OPC: It is unfair and unreasonable to require FPL's customers to pay costs that arose as a result of an intentional act of sabotage committed by an individual screened by FPL and employed by a contractor hired by FPL.

Additionally, through the calculated return of equity, FPL's customers have already paid FPL's shareholders to absorb this type of risk.

ISSUE 13B: Has FPL adequately mitigated the price risk for natural gas, residual oil, and purchased power for the years 2006 through 2008?

OPC: No position at this time.

Florida Public Utilities Company

ISSUE 14A: Are FPUC's proposed inverted fuel factors for the residential class appropriate?

OPC: No position at this time.

Gulf Power Company

ISSUE 15A: Has Gulf adequately mitigated the price risk for natural gas and purchased power for 2006 through 2008?

OPC: No position at this time.

Tampa Electric Company

ISSUE 16A: Has TECO adequately mitigated the price risk for natural gas and purchased power for 2006 through 2008?

OPC: No position at this time.

ISSUE 16B: What is the appropriate actual benchmark level for TECO for calendar year 2006 for gains on non-separated wholesale energy sales eligible for a shareholder incentive?

OPC: No position at this time.

GENERIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

ISSUE 17: What is the appropriate generation performance incentive factor (GPIF) reward or penalty for performance achieved during the period January 2006 through December 2006 for each investor-owned electric utility subject to the GPIF?

OPC: No position at this time.

ISSUE 18: What should the GPIF targets/ranges be for the period January 2008 through December 2008 for each investor-owned electric utility subject to the GPIF?

OPC: No position at this time.

COMPANY-SPECIFIC GENERATING PERFORMANCE INCENTIVE FACTOR ISSUES

Progress Energy Florida

No company-specific issues for Progress Energy Florida have been identified at this time. If such issues are identified, they shall be numbered 19A, 19B, 19C, and so forth, as appropriate.

Florida Power & Light Company

No company-specific issues for Florida Power & Light Company have been identified at this time. If such issues are identified, they shall be numbered 20A, 20B, 20C, and so forth, as appropriate.

Gulf Power Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 21A, 21B, 21C, and so forth, as appropriate.

Tampa Electric Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 22A, 22B, 22C, and so forth, as appropriate.

GENERIC CAPACITY COST RECOVERY FACTOR ISSUES

ISSUE 23: What are the appropriate capacity cost recovery true-up amounts for the period January 2006 through December 2006?

OPC: No position at this time.

ISSUE 24: What are the appropriate capacity cost recovery true-up amounts for the period January 2007 through December 2007?

OPC: No position at this time.

ISSUE 25: What are the appropriate total capacity cost recovery true-up amounts to be collected/refunded during the period January 2008 through December 2008?

OPC: No position at this time.

ISSUE 26: What are the appropriate projected net purchased power capacity cost recovery amounts to be included in the recovery factor for the period January 2008 through December 2008?

OPC: No position at this time.

ISSUE 27: What are the appropriate jurisdictional separation factors for capacity revenues and costs to be included in the recovery factor for the period January 2008 through December 2008?

OPC: No position at this time.

ISSUE 28: What are the appropriate capacity cost recovery factors for the period January 2008 through December 2008?

OPC: No position at this time.

COMPANY-SPECIFIC CAPACITY COST RECOVERY FACTOR ISSUES

Progress Energy Florida

No company-specific issues for Progress Energy Florida have been identified at this time. If such issues are identified, they shall be numbered 29A, 29B, 29C, and so forth, as appropriate.

Florida Power & Light Company

No company-specific issues for Florida Power & Light Company have been identified at this time. If such issues are identified, they shall be numbered 30A, 30B, 30C, and so forth, as appropriate.

Gulf Power Company

No company-specific issues for Gulf Power Company have been identified at this time. If such issues are identified, they shall be numbered 31A, 31B, 31C, and so forth, as appropriate.

Tampa Electric Company

No company-specific issues for Tampa Electric Company have been identified at this time. If such issues are identified, they shall be numbered 32A, 32B, 32C, and so forth, as appropriate.

ADDITIONAL ISSUES FOR THE 2007 FUEL PROCEEDING

ISSUE 33: Should the Commission continue its fuel cost recovery and prudence review policies, as established by Order No. 12645, issued November 3, 1983, in Docket No. 830001-EU, In re: Investigation of Fuel Adjustment Clauses of Electric Utilities.

OPC: Citizens believe that this issue should be deferred and/or removed, since this issue was raised after the filing of projection testimony and not addressed in testimony. The Commission should provide a time frame that is sufficient to enable parties and the Commission to deal effectively with the complexity of the subject and the significance of the policy considerations involved. For this reason, OPC asserts to the matter should be addressed in a separate proceeding

5. **STIPULATED ISSUES:**

None.

6. **PENDING MOTIONS:**

None.

7. **STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:**

Citizens have no pending requests for claims for confidentiality.

8. **OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:**

Citizens do not expect to challenge the qualification of any witness.

9. **STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:**

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 8th day of October, 2007.

s/ Joseph A. McGlothlin
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by electronic mail and U.S. Mail on this 8th day of October, 2007, to the following:

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