

State of Florida



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Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 27, 2009

TO: Ann Cole, Commission Clerk - PSC, Office of Commission Clerk

FROM: Mary Andrews Bane, Executive Director

Handwritten signature of Mary Andrews Bane.

RE: Letter from OPC re: Docket Nos. 090079-EI, 090144-EI, and 900145-EI

Attached is a letter dated March 25, 2009, which we received on March 26, 2009. Please add this letter to Docket Nos. 090079-EI, 090144-EI, and 090145-EI.

MAB/ba

cc: Mr. J. R. Kelly

DOCUMENT NUMBER-DATE

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JEFF ATWATER
President of the Senate



J.R. Kelly
Public Counsel

STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

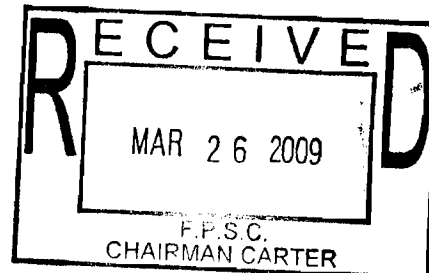
C/O THE FLORIDA LEGISLATURE
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LARRY CRETUL
Speaker of the House of
Representatives



March 25, 2009



Honorable Matthew Carter II
Chair, Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket Nos. 090079-EI; 090144-EI; and 090145-EI

Dear Chairman Carter:

I am writing with respect to the recent petitions filed by Progress Energy Florida, Inc. ("PEF"). As a part of the filing of Minimum Filing Requirements and testimony in the docket established for processing its petition for an increase in base rates, PEF has filed three additional requests that this office believes violate the stipulation regarding PEF's rates that is currently in effect and approved by the Public Service Commission ("Commission").

PEF has initiated the following filings:

1. PEF has filed a Petition for increase in base rates which had been assigned Docket No. 090079-EI.
2. In its Petition for increase in base rates, PEF has requested an interim rate increase in the amount of \$13.1 million. This is part of Docket No. 090079-EI.
3. PEF has filed a Petition for Limited Proceeding To Include The Bartow Repowering Project In Base Rates. This petition is requesting concurrent interim relief in the amount of \$126 million annually (or \$63 million for the remainder of 2009). PEF is requesting expedited approval in this docket. This petition is separate from the Petition for increase in base rates and has been assigned Docket No. 099144-EI.
4. PEF has filed a Petition For Expedited Approval Of The Deferral Of Pension Expenses, The Authorization To Charge Storm Hardening Expenses To The Storm Damage Reserve, And The Variance To Or Waiver Of Rule 25-6.0143(1)(c), (d), and (f), F.A.C. This petition was assigned Docket No. 090145-EI and has essentially three parts:
 - a. A departure from standard ratemaking accounting procedures in order to shift \$52.5 million in pension expenses that will be incurred in 2009 to be considered in setting higher permanent rates based upon a 2010 test year. DOCUMENT NUMBER-DATE

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- b. A request to charge \$33.1 million in storm hardening expenses which are non-storm costs to the storm damage reserve account.
- c. A variance or waiver of portions of Rule 25-6.0143, F.A.C., which set forth certain requirements related to storm related damages.

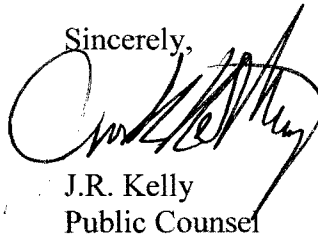
We believe that these requests in the aggregate constitute violations of both the language and the spirit of the stipulation currently in effect. We further believe that the filing of these multiple but related requests at the time of simultaneous rate cases by PEF and Florida Power and Light Company when the Commission's calendar is crowded, strains the ability and resources of Commission staff and the parties to deliver and receive due process in the handling and advocacy of the public's business in these matters.

These requests could have the effect of negatively impacting the orderly processing of the base rate cases, as it is unclear how these separate issues and dockets will be handled. Moreover, due to the full schedule presented in the Commission's current calendar, the availability of time on behalf of Commission staff and the parties will be an issue. For your scheduling purposes and planning, we are reviewing the filings and will be filing responses in opposition. There are representations in the two petitions in Dockets Nos. 090144-EI and 090145-EI indicating that PEF is unaware of any disputed material facts and/or of any parties seeking a hearing. We would urge the Commission to reserve judgment on that aspect of these filings.

Due to the multiple filings and concerns discussed herein, we respectfully request a scheduling conference with all parties for purposes of defining the specific issues to be reviewed and coordinating the discovery and other activities that will be required to fully evaluate the issues to prepare an adequate record for the Commission.

If you should have any questions, please do not hesitate to contact me.

Sincerely,



J.R. Kelly
Public Counsel

JRK/jk

cc: Ann Cole, Office of Commission Clerk
All parties of record